DEAN'S RELIGION PROBLEM, CONT'D
LEON WIESELTIER, FRANKLIN FOER, HOWARD DEAN

COZYING UP TO THE TALIBAN
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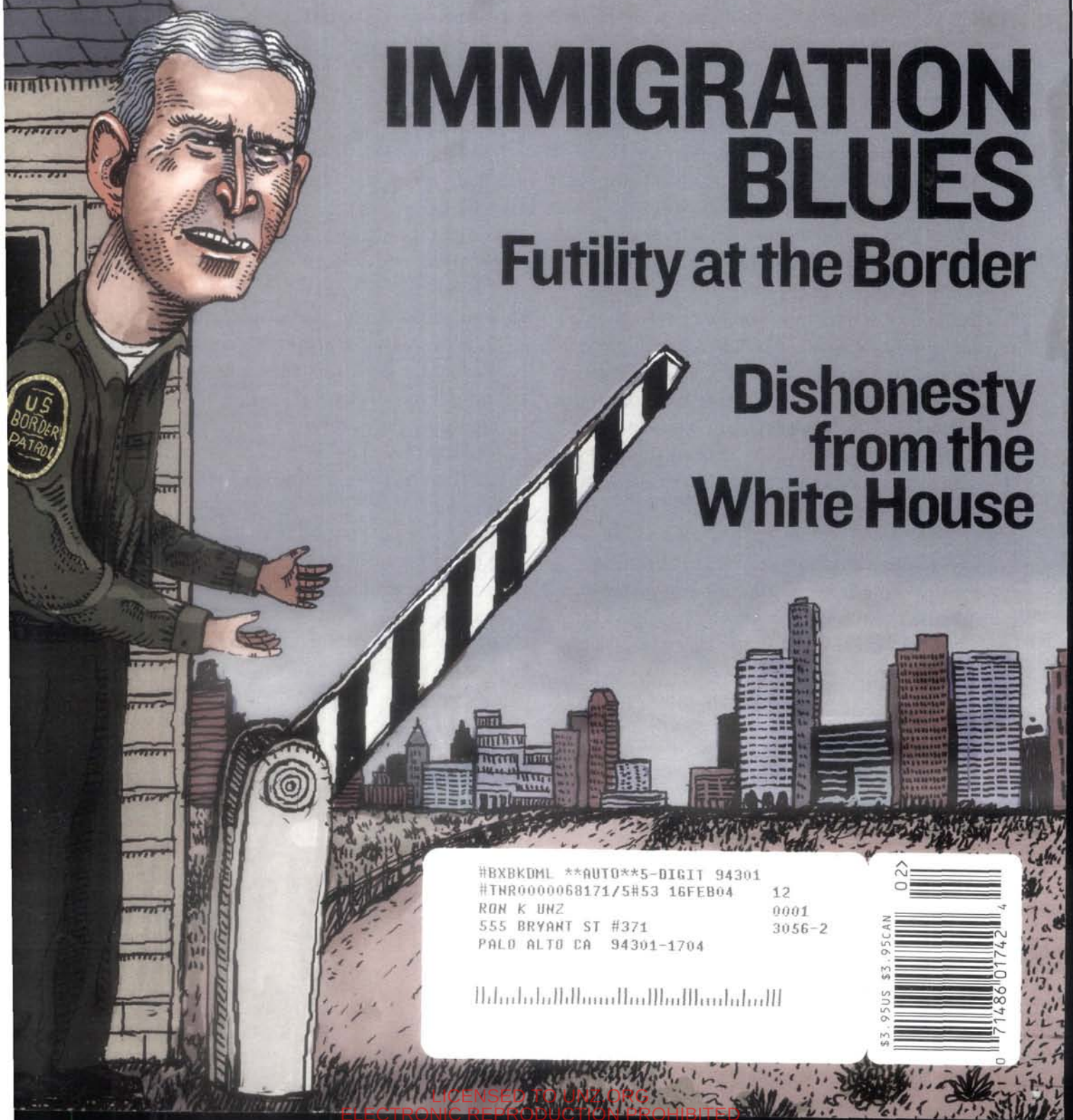
IMMIGRATION BLUES
Futility at the Border

Dishonesty from the White House



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Closing In *on the* Achievement Gap

Kurt M. Landgraf,
President & CEO, ETS

The achievement gap – the difference in school performance among students of different backgrounds – is a serious and persistent problem. In enacting the No Child Left Behind Act, the federal government has made a commitment to do its part in addressing the problem. ETS is dedicated to doing its part in this vital effort also.

A new ETS report, *Parsing the Achievement Gap: Baselines for Tracking Progress*, clarifies fourteen factors in the challenge, including everything from birth weight, nutrition, parental support, and pupil mobility, to class size, school safety, teacher preparation and experience, and rigor of the curriculum. The ETS report found minority and low-income students are at a disadvantage relative to White and more affluent students in these conditions and experiences conducive to student achievement.

Our research confirms that what happens in the classroom is key to educational excellence. A teacher's skills have an enormous impact on how well a child learns. Class size, school safety, and the rigor of the school curriculum can also make or break a child's learning experience. Nothing that occurs before, or outside of, the school experience should be a basis – or an excuse – for lowering expectations for what can be accomplished by teachers and schools. And schools must be held accountable for their performance.

At the same time, total responsibility for a child's education cannot be placed solely on the schools. As U.S. Rep. John Boehner, Chair of the House Education and Workforce Committee, recently pointed out, "Parents play a pivotal role by reinforcing daily academic lessons with their children at home at night."

Closing the achievement gap will take time, resources, and the commitment of families, schools and communities. Such commitment pays off. Recently, school officials in Montgomery County, Maryland, reported significant gains in reading for lower-income minority students in full-day kindergarten programs. In addition to increasing the number of hours children spend in kindergarten, the county revised its kindergarten program to provide more teacher training, a revamped curriculum, and smaller classes.

The achievement gap can be closed, and we must use this historic moment to see that it is. Nothing we can do will contribute more to ensure equality, opportunity, a strong economy, and a healthy democracy. ETS is fully committed to the cause. We will continue to listen to the education community and to learn from that community as well as from research, and we will do our part to lead the way in advocating both informed public policy and informed educational practice.

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A JOURNAL OF POLITICS AND THE ARTS

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CORRESPONDENCE

FAITHFULLY YOURS

I AM WRITING TO EXPRESS MY ASTONishment and disagreement with Franklin Foer's article "Beyond Belief" (December 29, 2003–January 12, 2004). Foer's piece was a combination of speculation, misrepresentation, and inaccuracy. I am astonished that he would write a cover story about a subject as personal and meaningful as my religious beliefs and never speak to me or my campaign once about it. It is absurd to think that a complete and thorough feature on this topic could have been written without including my direct feelings and thoughts.

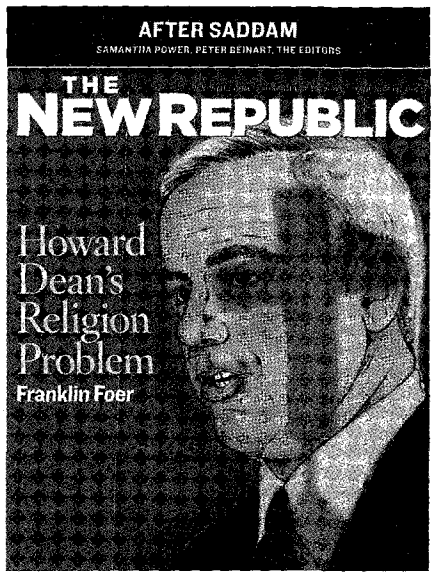
Foer's approach to this story represents a fundamental misstatement of my religious beliefs. His article clearly asserts that, since I do not pepper my stump speech with religious allusions and rhetoric, I will be unable to connect with voters across this country. My experience throughout my life and during this campaign has clearly proved otherwise. The American people are smarter and more astute than you give them credit for.

I hope for and expect more from THE NEW REPUBLIC in the future.

HOWARD DEAN, M.D.
Burlington, Vermont

FOER'S "BEYOND BELIEF" IS A cynical attack not only on Howard Dean's character and family but also on the First Congregational Church of Burlington, Vermont—which I pastor—and on the entire United Church of Christ.

Foer should know that there is no denomination named "Congregationalism." There is a 1.4 million-member United Church of Christ, of which the First Congregational Church of Burlington is a proud member. Far from being "famous for its informality and liberal stances," we are an Orthodox Christian communion deeply committed to the cost and joy of following in Christ's way.



Had Foer looked further than his own preconceptions, he would have discovered that the First Congregational Church of Burlington is a 200-year-old, 1,000–adult member faith community, each of whom has now been defamed by Foer in his rush to demean Dean. Yes, a few members of our church take part in weekly yoga exercise classes. This is neither trite nor sinful but a highly recommended health practice. What Foer fails to mention are the hundreds of desperately poor people who are ministered to each week by our church with food, clothing, and emergency financial assistance. He also conveniently overlooks our congregation's twelve-year partnership with an evangelical African American congregation that utilizes our facilities virtually rent-free, to say nothing of the weekly Bible studies of our extensive youth ministry. The list goes on and on.

Foer demeans our preaching ministry, saying we make the case for "lefty causes." The sermon his article so selectively quotes was in fact delivered in our pulpit on June 1, 2003, by the Reverend Dr. Naim Ateek, a distinguished Episcopal priest from Jerusalem. The so-called lefty cause Ateek supported in his sermon that morning was the Bush

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administration's very own "Road Map for Peace."

Howard Dean is in fact a faithful member of this church. Far from being "ambivalent" or "casual" about spiritual values, he is known in this church and community as a man of integrity, with strong, principled views. Agree with his politics or not, there is no doubting his earnest commitment to respond compassionately and effectively to those who are in need. Foer equates weekly attendance at worship with true spirituality. The man I work for—Jesus Christ—said it was the quality of a person's life and commitments that count. The two are not the same.

REVEREND DR. ROBERT A. LEE
Senior Minister
The First Congregational Church
Burlington, Vermont

FRANKLIN FOER REPLIES:
Howard Dean has good reason to be angry. But he might want to redirect his anger toward his staff. When I contacted the campaign's press office for help, it never responded. (If the governor likes, I can supply him with e-mail.) Without Dean's cooperation, I turned to his close friends and family for insight. He implies that I misstate his religious beliefs, but he doesn't point to a single inaccuracy or misrepresentation. What's more, Dean's recent stump speeches suggest that I got it right. Since the publication of my piece, Dean has gone out of his way to talk about Jesus and theology. He has clearly come to understand that his secularism poses a political problem. As a Democrat, I'm glad that he is trying to correct this before the general election.

Reverend Lee makes a valid technical objection to my use of the term "Congregationalism." There is no single denomination that goes by the name "Congregationalist." But this is a very technical objection. The United Church of Christ is the largest organizational representative of the Congregationalist tradition. And scholars of American religion—not to mention dictionaries and everyday people—usually refer to Congregationalism as a denomination. Next, Lee denies that his church has a liberal political orientation. He cites the healthful benefits of yoga and his church's orthodox rituals. But, politically, on issues ranging from the ordination of gays to Israel, it tilts clearly left. He defends Ateek's sermon as moderate. But the sermon repeatedly paints the Palestinians as innocent victims of Israeli villainy. Another quote from Ateek: "The Palestinians paid the price of European anti-Semitism. Under the Nazis, Jews were oppressed victims—today the Palestinians are the oppressed victims." Finally, he defends Howard Dean's devotion to justice as evidence of his spirituality. I don't doubt Dean's spiritual sincerity or his commitment to public service. But you can believe his sincerity while still worrying that his secular style will have a political cost in November. ■

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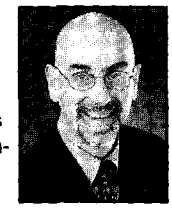
edm THE EMERGING DEMOCRATIC MAJORITY
THE ELECTRONIC STRATEGY CENTER FOR BUILDING THE NEW MAJORITY

By the end of this decade, demographic groups that generally support Democrats will provide the basis for a broad electoral majority. But the Democrats cannot convert this growing electoral base into an election-winning coalition until they overcome the deep split within the party.



Ruy Teixeira

Today, competition between the presidential candidates has reinforced the party's underlying divisions between its populist and centrist wings. But, among ordinary rank and file Democrats the most significant difference in perspective actually stems from the practical differences between issue-oriented activists and professional political campaign workers. They have different goals, but when these two groups meet in a political campaign they find their needs and objectives overlap. **On basic Democratic principles and values, far more unites them than divides them.**

Today Democrats have a profound moral and social obligation to seek unity. Democratic divisions have allowed Republicans to embrace an ideological extremism and "win at any cost" mentality that threatens not only the Democrats as a political party but many basic American values and institutions.

What is urgently needed is a dialogue among Democrats to establish minimum standards of mutual respect and cooperation between the various sectors of the party. Beyond this Democrats need a new approach to political strategy, one based on the hard facts about public opinion and the belief that centrist strategies for winning majorities can be combined with progressive goals and ideals.

The Emerging Democratic Majority website and e-newsletter has been created as a meeting ground where rank and file Democrats who share this perspective can find resources and strategic analysis for building a new Democratic majority. I invite you to visit the site and subscribe to the EDM newsletter today.

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Parlor Game

TRB FROM WASHINGTON

IN RECENT WEEKS, SOME POOR soul at NBC News has sat through 90 episodes of "The Editors" trolling for dirt on Howard Dean. I feel his or her pain. "The Editors"—a Montreal-based discussion program featuring Canadian and American journalists and policy wonks—may be the dullest political talk show ever broadcast. I should know: I appeared on it roughly half a dozen times. First, there were its sponsors: It was co-broadcast in the 1990s on the Canadian Broadcast Company and PBS, a virtual dream team of highbrow sobriety. Then there is its premise: that Americans and Canadians can thoughtfully comment on one another's politics. Needless to say, the thoughtfulness is distinctly one-sided. I remember one episode, in which the Canadian think-tanker across the table ably dissected Al Gore's chances of winning culturally conservative Rust Belt voters in the 2000 election. Desperate to return the favor, I struggled to formulate a comment about the then-leader of Canada's Reform Party, Preston Manning. But his first name kept eluding me. I was moments away from denouncing the new embodiment of right-wing Canadian prairie populism, *Peyton* Manning, when the segment mercifully ended.

I don't know what it says about Dean that he traveled to Montreal to tape the show an astounding 90 times. (Many more times, thankfully, than the stuffy former ambassador who lectured me off camera about the virtues of America's low voter turnout. A guy named L. Paul Bremer.) But there's no question that the comment on "The Editors" that last week landed Dean in hot water—his criticism of the Iowa caucuses—reflects extremely well on him. The caucuses are an awful way to select a presidential nominee. And, with any luck, a candidate will one day run against them—and win.

Appearing on "The Editors" in December 2000, Dean said, "If you look at the caucuses system, they are dominated by special interests in both parties. The special interests don't represent the centrist tendencies of the American people. They represent the extremes."

Those comments aren't just correct; they're undeniable. Start with voter turnout. Caucuses don't represent the "centrist tendencies of the American people" because the vast majority of people in a state like Iowa don't participate in them. Voting in a primary takes a few minutes, and you can do it any time of the day. Taking part in a caucus, by contrast, requires several hours, and you have to show up at exactly 6:30 p.m., which all but eliminates people who work at night. And, in a caucus, unlike a primary, there are no absentee ballots, which facilitate voting by the elderly and infirm.

The results are dramatic: In 2000, roughly 15 percent of registered Republicans and 10 percent of registered Democrats voted in the Iowa caucuses. Compare that with the New Hampshire primaries, where 85 percent of registered Republicans and 74 percent of registered Democrats cast ballots. In other words, the New Hampshire primary offered a reasonable approximation of public opinion in the state. As for Iowa, we simply don't know: Between 80 and 90 percent of the state's *registered voters* (not even adult residents) didn't participate. And yet, the media treated Iowa and New Hampshire as equally significant tests of the various candidates' strength.

Dean is also right that this low voter turnout gives special interests a far greater voice in caucuses than in primaries and that this in turn produces more extreme candidates. Since taking part in a caucus is so cumbersome, its participants are more likely to be associated with (or dragged by) an organized interest group. According to the Iowa Federation of Labor, 31 percent of its registered Democratic members attended the 2000 caucuses, compared with only 8 percent of registered Democrats from nonunion households. That helps explain why Dean and Richard Gephardt, the two candidates splitting virtually all the union endorsements, are running first and second in the state. And why Gore, who won the bulk of union endorsements in 2000, beat Bill Bradley by a whopping 29 percent in Iowa but by only 4 percent in New Hampshire. (Union influence may be further magnified by the fact that the caucuses do not involve a secret ballot; you support your candidate by walking to a certain part of the hall. As Iowa State journalism professor Dick Haws noted in a perceptive December 30 op-ed in the *Chicago Tribune*, a caucusgoer might not want to publicly defy her union's favored candidate, particularly in a room packed with labor activists.)

The GOP's best-organized grassroots interest group, the Christian Right, also wields disproportionate influence in Iowa. In 1988, fundamentalist loon Pat Robertson came in second in the Hawkeye State, topping Vice President Bush. In 1996, professional xenophobe Pat Buchanan lost to Robert Dole by only three points there. And, in 2000, John McCain—who courageously defied the Christian Right—didn't even compete in Iowa, despite going on to win New Hampshire by a whopping 18 points.

The McCain example, however, offers hope. For several elections now, renegade presidential candidates have been defying Iowa. In 1988, Gore charged that the caucuses' prominence "distorts the [nominating] process." In 2000, McCain skipped them altogether. And, this year, Joe Lieberman and Wesley Clark are doing the same. It's noteworthy that, in each case, the anti-Iowa candidates are also the ones opposed to (or at least distant from) their parties' entrenched interests and ideological extremes. Gore campaigned in 1988 as a centrist hawk. McCain's support for campaign finance reform infuriated Christian conservatives and K Street Republicans alike. Lieberman is a pro-war free-trader. And even Clark lacks union endorsements, not to mention longstanding ties to the Democratic base.

In 2000, McCain came closer than any previous anti-Iowa candidate to winning his party's nomination. But, this year, Clark, who is running second in New Hampshire and in fund-raising, offers another shot. If Clark defeats Dean there, he will also defeat the caucuses, which will never again enjoy as much influence. Ironically, then, it is Dean—the candidate of the nation's two largest unions and of the party's antiwar activists—who finds his interests aligned with the caucuses he once rightly condemned. Somewhere in Montreal, a Canadian think-tanker is laughing.

PETER BEINART

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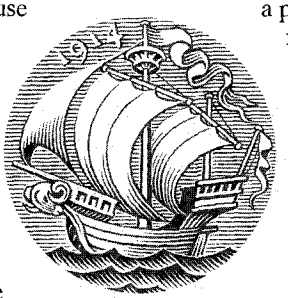
Alien

FOR ALL ITS flaws, President Bush's new immigration plan has one virtue: It recognizes that the U.S. economy rests on a two-tiered system. For years, economists have noted that the eight to ten million undocumented workers currently in the United States play a vital role in making the country tick, taking jobs most Americans don't want and arguably contributing more than they receive from the nation's health care, welfare, and Social Security systems. And yet, those workers are also preyed upon by unscrupulous employers; worse, because of their illegal status, they make slow progress, if any, toward incorporation in America's cultural and political systems. "We see millions of hardworking men and women condemned to fear and insecurity in a massive, undocumented economy," Bush said last week while introducing the plan. "Our nation needs an immigration system that serves the American economy and reflects the American dream."

Indeed. But Bush's proposal does just the opposite. It essentially sets up a guest-worker program, in which employers, after verifying that there are no domestic takers for a particular job, can advertise for foreign workers, whether already here illegally or still in their native country. They can then sponsor a worker for up to three years, renewable once, after which he or she has to return home.

The plan's shortcomings are obvious: Because the workers are sponsored by their employers, they cannot switch jobs once here unless they want to reapply for sponsorship, in the meantime risking deportation. And, because it registers them in the "system" and presents the risk that, after three years, they will be sent back home, the plan is unlikely to appeal to the millions of workers currently here illegally. "It's essentially akin to turning themselves in, and many or most are not going to sign up for that," says Josh Bernstein, director of federal policy at the National Immigration Law Center. In other words, current illegal immigrants, realizing that job flexibility and an unlimited stay—provided they're not caught, and they rarely are—is better than coming out in the open, will likely choose to retain their undocumented status.

But worse than the plan's impracticality is its disingenuousness. While ensuring that businesses have a steady flow of low-wage workers, the proposal does not, as Bush claims, give those workers a shot at the American dream—in large part because it doesn't give them a shot at becoming Americans. Under Bush's plan, an immigrant could only become a citizen by applying for a green card. But there are a mere 5,000 green cards handed out each year to low-skilled workers—and there are millions of illegal immigrants in unskilled jobs. So, of those workers who come forward and register, only a tiny fraction will become citizens and be allowed the chance to plan for a life for themselves and their families beyond a three-year, employer-controlled sponsorship. The vast majority who don't come forward will be relegated to second-class status, working legally but almost completely disenfranchised from America's political institutions and civil society, much as some five million guest workers were under the "Bracero" program during the 1940s and 1950s.



To make things worse, in proposing his own plan Bush has overlooked two complementary, bipartisan bills already under debate in Congress that *do* establish a clear path to citizenship—albeit only for certain illegal immigrants. One, the Agricultural Job Opportunity, Benefits and Security bill (AgJobs), supported by Democrat Ted Kennedy and Republican Larry Craig, would provide legal status for temporary agriculture workers, who can then apply for permanent residency. The other, the Development, Relief, and Education for Alien Minors Act (DREAM), co-sponsored by Republican Orrin Hatch and Democrat Richard Durbin, would allow immigrants who entered the country illegally as children to apply for legal residency upon graduating from high school.

The only hurdle to getting these bills passed, say proponents, is convincing the congressional leadership (which must take into account a powerful anti-immigrant minority) to bring them to a vote—exactly the sort of thing that presidential lobbying could achieve. Instead, this being an election year, Bush has trotted out his own proposal. Unfortunately, this makes it less likely that either AgJobs or DREAM will pass. Bush, eager to get his own bill made into law, will be loath to lend political capital to someone else's idea. As at so many junctures in this administration, Bush had a choice between what was good for the country and what was good for him politically. It wasn't even a close call. ■

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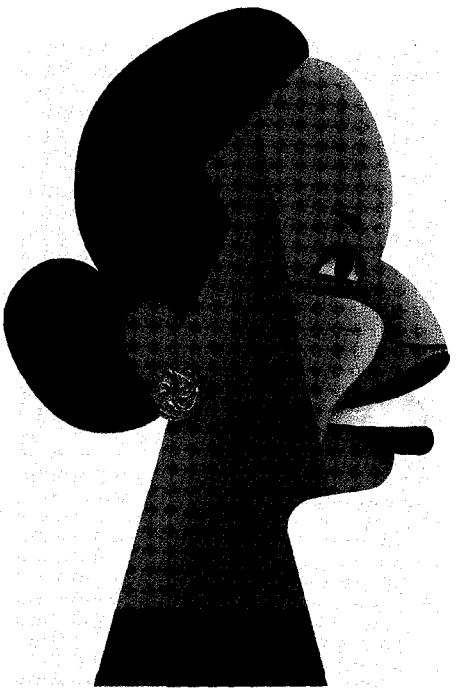
NOTEBOOK

MOSELEY BRAUN GETS REHABILITATED . . . O'NEILL GETS INVESTIGATED

FACE LIFT

CAROL MOSELEY BRAUN MAY barely register in the polls, but odds are that she'll emerge from the primaries victorious. To be sure, the disgraced former senator introduced no new ideas to the campaign, consumed limited debate time with platitudes, and barely even bothered to campaign. But Moseley Braun isn't running to win, or earn a Cabinet post, or even promote a fringe philosophy. She's running to rehabilitate her image, which was in tatters by the time she lost her Senate seat in 1998—in no small part because of her 1996 visit to Nigeria, against the State Department's wishes, to meet with the country's dictator, who had a flair for hanging human rights activists. Nothing more handily sums up her campaign than the fact that, although she has no policy papers, Moseley Braun provides reporters with a thick folder of clippings refuting the various allegations against her, which she dubs "the Nasties."

Rehabilitation may not be a noble reason to run for president, but, in one of the surprises of the campaign, Moseley Braun may be achieving it nonetheless. In September, for instance, when Wesley Clark, Howard Dean, John Edwards, and John Kerry were all opposing George W. Bush's $87 billion Iraq budget request, Moseley Braun responsibly supported it—even though she opposed the war—calling it "absolutely critical that we not cut and run." Then, last week, in a similar display of good sense, Moseley Braun made a point of chastising Al Sharpton after the Harlem hustler scurrilously bashed Dean for failing to appoint any "blacks or browns" to his Vermont—*Vermont!*—Cabinet. "The fact of the matter is you can always blow up a racial debate and make people mad at each other, . . . [but] people can't afford a racial screaming match," she said, uttering one of the bravest and most sensible lines of the night and shaming her timid white male counterparts.



Carol Moseley Braun

Moseley Braun probably shouldn't have been on that stage in the first place. But, to her credit, she did something to make up for it.

BOOK PRICES

ON SUNDAY, FORMER TREASURY Secretary Paul O'Neill gave CBS's "60 Minutes" a televised peek into his new tell-all book *The Price of Loyalty* (written by Ron Suskind), in which he refers to President Bush as "a blind man in a room full of deaf people" and portrays his administration as ideologically entrenched and intellectually dishonest. Less than 24 hours later, Treasury spokesman Rob Nichols announced that the Department's inspector general was opening an investigation into whether O'Neill had spirited classified documents out of his office. Specifically, Nichols clarified, the probe is "based on . . . the document shown on '60 Minutes' that said 'secret.' " That document, titled "Plan for Post-Saddam Iraq," was indeed stamped "secret" and was indeed shown on "60 Minutes." More important, it contributed to O'Neill's charge that Bush and his aides were deeply involved in planning some form of action against Saddam Hussein months before September 11, 2001.

But CBS's cameras didn't reveal anything from that document, showing only its cover sheet. And, the day after the probe was announced, O'Neill said that he had vetted the thousands of documents he provided to Suskind through the Department's chief legal counsel. Moreover, although Nichols described the probe as "standard operating procedure," we don't recall any such look into the mountains of classified documents, minutes of National Security Council meetings, and privileged briefings given to Bob Woodward for his fawning portrait *Bush at War*. For that matter, why did the administration rush to investigate O'Neill when it took the Justice Department more than two months to launch an investigation into who leaked the identity of clandestine CIA operative Valerie Plame after her husband, Joe Wilson, revealed information damaging to the president's case for overthrowing Saddam? Apparently, the price of truth is even higher than the price of loyalty.

WHITEWASH

FOR TWO YEARS, CAREER SCIENTISTS at the Department of Health and Human Services (HHS) have been assembling a report, ordered by Congress, on minority health care. And, when House Democrats obtained a draft of the report's executive summary this summer, they found a plethora of information about the sad state of health care among minorities—shorter lifespans, less access to preventive care, higher rates of infant mortality. But you won't find any of that in the summary's final version, released December 23. Following its tradition of squelching science it finds

DAVID COWLES

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inconvenient, the Bush administration gutted the HHS report, turning an objective assessment into wishful pabulum. The chief finding in the early draft—that "inequality in [health care] quality exists" and that "disparities come at a personal and societal price"—has been replaced with the cheery observation that "Americans have exceptional quality of health care," with the understated caveat that "some differences . . . do exist." Throughout the summary, administration bowdlerizers eliminated the most egregious examples of health care disparities and inserted statistics on the few areas in which minorities don't lag behind whites. For example, gone is the key finding that minorities are more likely to die from HIV and inserted is the utterly banal judgment that "Blacks and Hispanics are more likely to report that their provider usually asks about medications from other doctors." The report does acknowledge that "greater improvement is possible" but cautions, "There is still a lot to learn." Gee, now where could the administration do that?

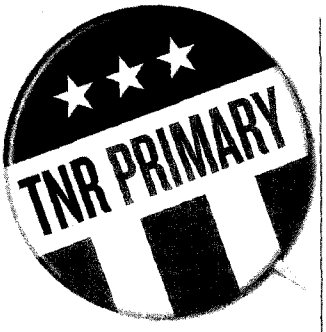
QUICK CHANGE

"YOU'RE NEVER GOING TO EVER FIND me playing that game. The headcount, the name game."
—Howard Dean, responding to a question on January 12 about why his senior campaign staff is not more diverse.

"Dean's campaign provided to reporters a list of 20 Hispanic and African-American campaign workers, including some who are senior advisers and state directors."
—*Chicago Tribune*, January 13

POLITICAL MODEL

"THIS IS NOT TO SAY THAT PEOPLE vote on the basis of sexual fantasies alone"—*The Nation*, January 26, acknowledging that, although "butch," Howard Dean may not win the White House on the strength of his "erotic aura" alone. ■



LEFT ALIGNMENT

Candidate: Howard Dean
Category: General Likeability
Grade: D

OK, we all agree that Howard Dean is not nearly as liberal as George McGovern. But why does he keep giving the impression that he is? In this week's *New Yorker*, he says the following about his former professor, Wolfgang Leonhard:

> He'd been a Party official in East Germany and had defected. . . . He once told us, 'Pravda lies in such a way that not even the opposite is so.' That really hit home. I felt he wasn't just referring to the Soviet government but to our own at the time. You knew it from some of the things Nixon talked about—denying the bombing of Cambodia. . . . I think there are some similarities between George Bush's Administration and Richard Nixon's, . . . [including] a group of people around the President whose main allegiance is to each other and their ideology rather than to the United States.

There's something to the Nixon-Bush analogy. But Dean manages to make the case with rhetorical flourishes that have the whiff of a genuine New New Lefty. Why bother making the comparison between the United States and the USSR? I'm sure he doesn't really mean it—at least, pretty sure. And, even if he does believe it, surely he should be able to calculate the political damage that such comparisons tend to bring. Moreover, Dean has done a nice job of attacking the Bushies for implying their critics are unpatriotic. So, it's a bit rich for him to level the same charge at them.
—Franklin Foer

INCREDIBLE PROMISE

Candidate: Wesley Clark
Category: Intellectual Honesty
Grade: D

For all his talk of his national security credentials, I'm beginning to think that Wesley Clark is just Howard Dean with stars on his shoulders. Indeed, when it comes to his critique of U.S. foreign policy, Clark sounds virtually indistinguishable from his ill-tempered rival. Last week, Clark told the *Concord Monitor* that one of the "greatest lies" being peddled today is that September 11, 2001, couldn't have been prevented, echoing the numerous occasions when Clark has come close to pinning blame for the attacks directly on President Bush. Never mind that Al Qaeda festered for years before Bush's pre-September 11 tenure, which lasted all of eight months: In the same interview, Clark assures voters that, under a Clark presidency, "we are not going to have one of these incidents"—as if a President Clark could sign an executive order wishing away the possibility of more terrorist attacks. Now, extravagant promises are a staple of presidential campaigns, but, for someone who likes to criticize Bush's hubris, Clark has a slight overconfidence problem. —Lawrence F. Kaplan

LESSON PLAN

Candidate: John Edwards
Category: Domestic Policy
Grade: A

Education, as an electoral issue, is a funny thing—polls consistently put it at or near the top of voter concerns, and yet it rarely figures prominently in national elections. As a result, few candidates make it a signature issue. And yet, though he has received frustratingly little press for it, that's just what John Edwards has done. For more than a year, he has been rolling out what is now a long list of specific policy proposals. This month, his campaign has been hand-delivering his 60-page "Real Solutions for America" booklet, which includes everything from college-loan reform to teacher scholarships to adopt-a-school programs for colleges and universities. The brilliance of Edwards's approach is to develop reasonable, relatively inexpensive programs that, taken as a whole, add up to a coherent and imminently workable solution to America's education malaise. This stands in contrast to the Bush approach, which consists of grand, ideologically driven ideas like standardized testing and school vouchers without any real understanding of how to pay for or even implement them.

Edwards's plan also stands in contrast to Bush's approach in that it seeks to help under-performing schools, not punish them. It calls for building more—and smaller—schools, so as to reduce class size and make education more of a familiar, community affair. He proposes scholarships for students willing to commit to working for five years in under-performing schools. And he would double the amount of federal spending on teacher training.

None of these suggestions is particularly grand, but, taken as a whole, they represent a vision. And, in a more reasonable world, everyone would know about it.
—Clay Risen

This is the final installment of TNR Primary, but please visit TNR.COM to read Ryan Lizza's new blog, "Campaign Journal," devoted to the ins and outs of the primary season.

CARICATURES BY ZACH TRENHOLM

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Kabul Dispatch

Bosom Buddies

BY MASSOUD ANSARI

THIS MONTH, THE Afghan leaders gathered in Kabul for a *loya jirga*, or grand council, agreed on a new, progressive constitution for this war-torn country. Unfortunately, Afghan officials say, the new constitution will not guarantee security. In fact, in recent months violence has risen sharply across Afghanistan, much of it instigated by Islamist Taliban remnants who despise President Hamid Karzai's vision of a liberal state. Aid workers and Afghan moderates are being killed almost daily, and Washington fears the fighting could scuttle reconstruction and even bring a fundamentalist government back to power.

With chaos rising, the United States and its Afghan allies have turned to an unlikely savior: the former Taliban leaders themselves. The United States and Karzai's government harbor the quixotic hope that the men American officials call "moderate Taliban elements" will convince their peers to cease violence and join the Afghan rebuilding effort. In fact, over the past five months, Afghan government leaders and allegedly even top American officials have been engaged in secret parleys with Taliban chiefs—with Afghan officials allegedly looking the other way as Taliban commanders "escape" from jail in plain sight of their guards.

LAW AND ORDER is deteriorating across Afghanistan. Conditions have become particularly volatile in the Taliban's traditional stronghold, the Pashtun south, where former regime remnants have upped the ante against U.S.-led coalition forces since mid-August. Some 500 people, many of them civilians, soldiers, and aid workers, have been killed in Afghanistan in that time period, a sharp rise over last year. Last week, the Taliban reportedly killed at least 27 people over a three-day period. This violence has forced international aid organizations to limit their operations in the south and has raised doubts about the viability of national elections next year.

Tasked with overseeing the *loya jirga*, a national census, and elections next year—and possessing a small budget—Karzai's government has been unable to impose the rule of law. In fact, except in Kabul, the national government is essentially powerless across the country's 32 provinces. Officials in Kabul say the International Security Assistance Force, the primary peacekeeper in Afghanistan, has tenaciously tried to stabilize the country, launching operations in the mountains of the rugged southwest to root out remaining Taliban. But these have not been wholly successful. "We have tried everything ... to weaken their strength" but have not lowered the level of violence, says one Afghan official. Meanwhile, analysts in Kabul say the United States wants to spend less money on battling the Taliban and more on rebuilding the country.

So the Afghan government and their American patrons have resorted to desperate measures. Officials in Kabul say plans to cultivate so-called moderate Taliban and use them to convince the fundamentalist militia to stop fighting were developed by Karzai and the United States over the past five months. These plans, they say, were given the thumbs-up by the White House when U.S. Deputy Secretary of State Richard Armitage visited Afghanistan in October. Since then, Afghan officials have begun negotiations with many top Taliban leaders, including several Taliban in U.S. custody. "We'd been trying to explore every possible option, ... holding dialogues with different factions" of the Taliban, says one senior Afghan government official. "We cannot kill all of them."

In fact, officials say, the United States has even secretly allowed the release of several top Taliban leaders, freeing them from detention at Bagram Air Base near Kabul so they can talk with Karzai's government. Even more surprising, Taliban insiders say Afghan officials essentially allowed 42 Taliban commanders, who were arrested after recent gun battles with coalition forces, to break out of jail in Kandahar in the hopes that these men would enter a dialogue with Karzai. The commanders, including important leaders like the brother of the former Taliban defense minister, fled by digging a 30-yard-long tunnel from their jail to a point outside on October 10. It looked like a jailbreak, but it was essentially a release, says a Taliban source. He explained that, since the Kandahar jail is one of the most secure in Afghanistan, it is almost impossible that anyone could dig such a tunnel without the authorities knowing about it. In fact, Taliban insiders say, at the time of the Kandahar jailbreak, vehicles were parked at the end of the tunnel, clearly visible to prison guards. "Most of these militants simply came out of this tunnel, jumped into these vehicles, and were whisked away to their hideouts" without any resistance from prison officials, says a source.

According to Taliban sources, Mullah Wakil Ahmed Mutawakil, foreign minister in the former Taliban regime, was one of those released from Bagram in early October. They say the mullah was flown to Kandahar for a clandestine meeting with Armitage on October 5. "[Mutawakil] was released from the custody ... so that he could initiate dialogues with Taliban leaders who are on the same wavelength with him," says a source. The source says that the meeting with Armitage was arranged because Mutawakil wanted some direct guarantees of his security from the United States before he would proceed with this task. Reassured, Mutawakil has begun discussions with Karzai's government in secret locations in Kabul while simultaneously talking with Taliban leaders

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close to Al Qaeda members. (Though Mutawakil's family and other independent sources confirm his release, Karzai and the American authorities in Kabul deny that it has taken place. A State Department official in Washington also says that Armitage never met with Mutawakil.)

Sources say Karzai's government considered using several dozen Taliban leaders as liaisons to the fundamentalist militia, but Mutawakil was chosen because he supposedly carries significant weight within the Taliban ranks. Karzai's government also supposedly considered the mullah a moderate: Mutawakil opposed the Taliban's destruction of Buddha statues in the town of Bamiyan in March 2001 and, in fall 2001, tried to persuade hard-line Taliban leader Mullah Omar to hand Osama bin Laden to the United States in order to ensure the Taliban's survival. Nonetheless, Mutawakil is hardly a saint: He has long been close to Mullah Omar, and Indian intelligence considers him a suspect in the hijacking of an Indian airliner in December 1999.

What's more, people familiar with the Taliban's structure doubt that Mutawakil can deliver on his promise to bring Taliban leaders over to Karzai's side. Though Mutawakil was a top leader, Mullah Omar runs the Taliban with an iron fist, and he alone enjoys the commanders' respect, says Ismail Khoso, a Pakistani journalist who covers the Taliban. Khoso says that, once a Taliban member like Mutawakil begins talking to the enemy, he is quickly disowned by Omar and becomes persona non grata within the militia. "The ones [Mullah Omar] disassociates himself from, they become zero in the network," Khoso says. Learning of Mutawakil's maneuvers, the Taliban has already affirmed that the former foreign minister will get nowhere with his plan. "The only people who can speak on behalf of the Taliban are those assigned by Mullah Omar," read a recent statement issued by Mufti Abdul Latif Hakimi, Omar's spokesman, from his hideout somewhere in southern Afghanistan.

In fact, experts on the Taliban say that the group is as much a cult as a mass movement. "It's a movement because many of its cadres are ready to give their lives for a cause they believe [to be] supreme, but it's a cult because its cadres are ready to fight [essentially] for Mullah Omar," says another Pakistani journalist close to the Taliban. Many Taliban guerrillas pay no heed to anyone other than their supreme leader; they fight and kill only when they receive a message from Omar. As a result, the journalist says, it will be nearly impossible for anyone other than Omar to bring the Taliban to the side of peace: "The movement can only die if their one-eyed spiritual leader dies or he asks them to bury the hatchet." Good luck. ■

Lamu Dispatch

Out of Joint

BY JOSHUA HAMMER

THE SUNBURNED ENGLISHMAN sat at the bar of the Peponi Hotel in Lamu, nursing a vodka-and-grapefruit-juice cocktail and sucking on an Embassy cigarette. A former resort owner who sold out a couple of years ago but still pays regular visits to this island off the Kenyan coast, Gerald had recently returned from a fishing trip to the neighboring island of Kiwayu—a journey that had turned up unsettling evidence of the changes creeping into the region. The Kiwayu beach hotel was deserted, he said, except for a pair of FBI agents who had converted their bungalow into a listening post. According to Gerald, the men were providing backup for CIA operatives and American Special Forces troops who had recently snuck across the border into Somalia to kidnap a Yemeni, known as Sheik Jaylani, who is linked to the suicide boat-bomb attack against the USS *Cole* in Aden three years ago. "You could tell from their pasty faces that they weren't there to go fishing," he said.

First made popular by Mick Jagger in the 1970s, this sleepy island just off the Kenyan coast has long been a favorite retreat for Europeans, both entertainment royalty and low-end backpacker tourists, all of whom want to escape the real world. During the past year, however, the real world's problems have crept in. The Thanksgiving Day 2002 suicide attack on the Paradise Hotel near Mombasa and the simultaneous attempted downing of an Israeli jetliner with shoulder-fired missiles have badly damaged Kenya's tourism industry: Though in 1996 Kenya attracted more than one million tourists, the Kenya Tourist Board says that it drew roughly 480,000 between January and November of 2003. The attacks also gave Lamu a new—and more sinister—reputation. Several of the men who planned and carried out the November bombing, it turned out, were members of an Al Qaeda–affiliated cell that used Lamu and other remote islands along the Kenyan coast as way stations and hiding places while they plotted. In fact, Lamu has quietly become a breeding ground for militant Islam. Now, Kenyan and American law enforcement officials have descended on this paradise, moving into Lamu's hotels, conducting interrogations, and frantically searching for Al Qaeda members.

WHEN I VISITED Lamu in early December, it was difficult at first to notice the changes on the island. The unpolluted waters still teemed with sailfish, marlin, dolphins, and

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turtles. Waves lapped onto white-sand beaches wedged between rolling dunes and coral reefs. On the seaside patio of the Peponi, a small, family-run hotel on Shela beach that's the social center of the island, there was the usual crowd of Europeans and the occasional American who gossiped over stiff drinks while Kenyan beach boys in Rastafarian hairdos proffered rides on old wooden sailing dhows, traditional ships that historically plied the coasts of Africa and Arabia. The most obvious disruption remained the annual Christmas arrival of Monaco's Princess Caroline and her notorious husband, Prince Ernst August of Hanover, who built a $3.5 million villa and landscaped gardens next to the hotel six years ago and who are fond of holding raucous parties at their beach house with several dozen of their aristocratic friends. Peponi regulars still talk with a mix of horror and amusement about New Year's Eve 2000, when a drunken Prince Ernst beat up the German owner of a discotheque on nearby Manda Island after claiming that the disco's lights and noise were ruining Lamu's tranquil atmosphere. The owner ended up in intensive care.

But, in the dank warrens of Lamu Town two miles down the beach, there are more serious problems. The residents of Lamu Town are primarily Muslim traders, fishermen, boat-builders, and coconut farmers. Most do not share in the island's tourist-generated wealth and have felt neglected for decades by the Christian-dominated Kenyan central government. In fact, the money from tourism has benefited only a handful of property owners in Lamu who rent their houses to wealthy Europeans, some Christians brought in to work at such resorts as Peponi, and a few Muslim boatmen, furniture-makers, and antiques vendors. But, for the most part, the Europeans on the island inhabit their own private world, while Lamu Town remains a filthy, garbage-strewn place with open sewers and donkey feces in the streets. Worse, years of neglect by the regime of corrupt former Kenyan President Daniel arap Moi, a Christian who left office in late 2002 after 24 years in power, deepened the town's poverty and fostered resentment toward the Kenyan government and the West, which backed Moi. In fact, Lamu Town voted overwhelmingly for the opposition party in Kenya's last national election.

And, though Lamu is hardly a hotbed of Islamic extremism, Moi's mistakes and the dichotomy between Western tourists and the Lamu Town poor have created a welcoming atmosphere for Muslim extremists' anti-Western message. As I wandered past black-veiled women and scrawny children in Lamu Town, I confronted graffiti on the ancient walls celebrating Osama bin Laden and warning, BUSH, PREPARE FOR ANOTHER ATTACK. Omar, my guide, told me that two of Lamu's dozen mosques—one Shia, one Sunni (which have become known as fundamentalist hotbeds) erupted in celebrations after the World Trade Center terrorist attacks two years ago. "The police made a lot of arrests after September eleventh, and they keep a close watch on those known to be [Al Qaeda] sympathizers," Omar told me. "That's driven many of them underground, but they're still there."

Lamu residents told me that the imams in the hard-line mosques are locally trained, but Al Qaeda clearly has stepped up efforts to recruit Muslims in the region. Al Qaeda operatives typically marry into Kenyan families and then use the hundreds of mosques that dot the coast to recruit locals angry with the Kenyan government, which has long had close ties not only to the United States but also to Israel. Anarchic Somalia, 60 miles to the north, typically serves as a training ground for these recruits.

But Al Qaeda members also take shelter on these islands off the Kenyan coast. Fazul Abdullah Mohammed, a deeply religious native of the Comoros Islands who received terrorist training in Afghanistan and Somalia, hid out for most of 2002 on the remote Kenyan island of Pate—a six-hour speedboat journey from Lamu. There he married into a local family, taught at an Islamic school, and even started a local soccer club that he called Kabul, which competed with the island's other team, known as Al Qaeda. And, according to both Kenyan and FBI investigators, while not teaching soccer, Mohammed planned and carried out the Thanksgiving Day attack in Kenya with eight Kenyans he'd recruited. Among them was Saleh Ali Saleh Nabhan from Mombasa, who built the bomb used to destroy the Paradise Hotel and then hid out in Lamu for a week with relatives before fleeing to Somalia. In fact, Kenyan investigators believe all the terrorists who survived the November 28 attacks regrouped on Lamu and left two days later for Somalia by dhow. And terrorist cells reportedly remain active in the area. Kenyan police recently arrested and interrogated a group of terrorist suspects in the Lamu area, who allegedly revealed that Al Qaeda had developed a plan to blow up the newly constructed U.S. Embassy in Nairobi last June using a truck packed with explosives and a small aircraft carrying a bomb. Ultimately, the Al Qaeda cell aborted the planned bombing.

Lamu's unfortunate new reputation has drawn cops from all over the world. The week I visited the island, the U.S. government issued a terror alert for Kenya, prompting the evacuation of the Hilton Hotel and several other buildings in downtown Nairobi where foreigners are known to congregate. Kenya's anti-terrorism police now are frequent visitors to Lamu, and the FBI recently set up shop at the Peponi during joint U.S.-Kenyan exercises near the Somali border. Members of the regional anti-terrorist task force, led by the U.S. military and based in nearby Djibouti, also have been searching the Lamu region. And, according to *The Times of London*, the FBI and Kenya's anti-terrorism police squad launched a massive combined manhunt for Fazul Abdullah Mohammed along the Kenyan coast in May 2003. They have been busy interrogating relatives of Mohammed's who live in the Lamu area.

THOUGH MILITANT ISLAM may be gaining favor here, most locals on Lamu don't like to talk about the creeping fundamentalist influence. With Kenya's tourism industry still reeling from the November 28 attacks—Abercrombie and Kent, the

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Where We Stand

THE AFT ON CRITICAL ISSUES

REDESIGNED FOR SUCCESS

PHOTO CREDIT: MICHAEL CAMPBELL

Test scores and student morale are both on the rise at the Baybrook School in Baltimore.

Baybrook Elementary and Middle School bears little resemblance to the place it was four years ago. The Baltimore, Maryland school had long been mired at the bottom of the city's public school rankings. Housed in drab, brick buildings on a weed-filled lot, Baybrook and its students seemed trapped in a spiral of failure.

Today, however, test scores have soared and Baybrook's grounds are neatly tended. This transformation is due, in large part, to a program called "Redesigning Schools to Raise Achievement" (RSRA).

Launched in 1998 by the American Federation of Teachers, the RSRA program helps AFT locals forge partnerships with school district leaders to turn around low-performing schools and provides technical assistance in applying the proven approaches it recommends.

Four years ago, leaders of the Baltimore Teachers Union (an affiliate of the AFT) and the district's CEO teamed up to turn around 10 of the city's lowest-performing public schools, including Baybrook. Adopting the RSRA approach, the BTU and the CEO applied strategies known to strengthen achievement, and they involved all the necessary partners from the beginning.

The schools adopted a sound, literacy-focused curriculum, supported by frequent assessments, strong discipline codes, and professional development for teachers. (Baybrook has four on-site teaching coaches, and every school day begins with 45 minutes of teacher training.) The BTU and management negotiated new contracts and agreements to support these school reforms.

Test scores at Baybrook and the other nine schools have risen dramatically over the past three years, and an independent evaluation team describes them as "tremendously improved." Baybrook now is a school where children achieve, teachers are proud to work, and the school community shares a common vision and sense of purpose.

Other cities are also having success turning around low-performing schools. In communities like Philadelphia, Cleveland, Minneapolis, and Hartford, labor-management partnerships—in many cases using the AFT's RSRA approach—are improving public schools by working together and using proven programs to help children learn. Toledo public schools, for example, have boosted test scores—even posting double-digit gains on some measures since adopting RSRA strategies.

Schools like Baybrook prove that, even in the face of daunting challenges, when we use the right approach and involve the necessary partners, schools can turn around.

We can turn around low-achieving schools and increase learning for all students.

To learn more about education programs and resources that work, please visit our Web site at www.aft.org.

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AFT TEACHERS ▪ AFT PSRP ▪ AFT HIGHER EDUCATION
AFT PUBLIC EMPLOYEES ▪ AFT HEALTHCARE

American Federation of Teachers
Sandra Feldman, President

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country's largest luxury tour operator, significantly scaled down its operations last month—there's a fear that drawing attention to the problem on Lamu will scare away even the few remaining die-hards. Omar, my guide in Lamu Town, turned visibly angry when I asked him to lead me to the Nabhan family. "They don't live here anymore," he insisted.

Other Lamu locals have developed their own unique methods for coping with the threat of terrorism in paradise. At sunset one evening, I hired a dhow for a cruise around Lamu and the neighboring islands. With his bleached blond hair tucked beneath a multicolored Rastafarian cap, Captain Abdul, the skipper, expertly guided the craft through inlets lined with mangrove trees while sucking hard on a joint the size of a Cohiba cigar. "Just have some of this spliff," he said, offering me the marijuana. "Pretty soon, you won't even remember that Al Qaeda exists." ■

Congress must act on detainees.

Judge Not

BY JEFFREY ROSEN

On December 18, two federal appeals courts rejected the Bush administration's claim that the president has the unilateral authority to identify citizens or aliens as enemy combatants and to detain them indefinitely, at home and abroad. The rulings were a clear sign that President Bush's sweeping claims that he can do whatever he likes in the war on terrorism without review by the courts or Congress are provoking a judicial backlash. Unfortunately, both of the appellate decisions went too far in insisting that courts have the competence to second-guess what have traditionally been considered executive decisions about the nature and scope of the war on terrorism. Instead of inciting further judicial overreactions with unnecessarily broad claims about his authority to act alone, Bush should follow the example of his wartime predecessors and seek the support of Congress instead.

In the more adventurous of the two decisions, *Gherebi* v. *Bush*, the U.S. Court of Appeals for the Ninth Circuit held that the enemy aliens being held in Guantanamo Bay can challenge the constitutionality of their detentions by filing habeas corpus petitions in federal courts. The Supreme Court held in 1950 that German enemy aliens tried for espionage by a U.S. military commission in China and imprisoned in Germany had no right to challenge the legality of their detention, because they were held outside "any territory over which the United States is sovereign." The same logic arguably applies at the Guantanamo Bay Naval Base, which the United States leases from Cuba. But the federal appeals court in California held that, since the lease is perpetual unless both parties agree to break it, the United States had the equivalent of sovereign control over the naval base. (Two other appellate courts had previously reached the opposite conclusion about the status of Guantanamo.) The U.S. Supreme Court will resolve the dispute once and for all this spring, but the Ninth Circuit refused to wait for its decision.

In practice, if the Supreme Court agrees that federal courts have jurisdiction over Guantanamo, the United States could avoid future judicial scrutiny simply by imprisoning all future enemy combatants at the Diego Garcia U.S. Naval Support Facility, located on British territory in the Indian Ocean. This suggests the impracticality of judicial attempts to create broad constitutional rights for enemy aliens based on geographic technicalities. It's certainly troubling that some detainees might fall into a legal black hole, and it's understandable that justices might therefore be tempted to impose some kind of U.S. judicial oversight on Guantanamo. But, for better or for worse, the Supreme Court has long refused to extend the jurisdiction of federal courts over aliens outside the United States, and it would be naïve to expect the Court to revisit that decision on a broad scale.

Although the Ninth Circuit tried to second-guess the president's decision about the designation of enemy aliens, they failed to review a question where they arguably have more competence: namely, the constitutionality of the military tribunals by which the United States has promised to try at least some of the Guantanamo prisoners. "The Ninth Circuit got it precisely backward by allowing the enemy aliens to contest whether the president has the authority in times of crisis to detain them but not allowing them to contest the trials that they may face," says Neal Katyal of Georgetown University Law Center. "The more principled ruling would have said, the president has a broad war-fighting power, where the courts should defer to his judgment, and a narrower law enforcement power, where courts can review the constitutionality of any legal procedures he creates." Katyal argues that only Congress has the power to authorize military tribunals and that the congressional statutes authorizing such tribunals during World War II aren't broad enough to cover the terrorism charges that the Bush administration seeks to prosecute today. My own view is that Bush should ask Congress to authorize the tribunals, but, if he doesn't, the World War II statutes are arguably broad enough to justify the tribunals today. But it's clear that the ultimate supervision of military tribunals—including provisions governing the appointment of counsel—should ideally come from clear statements by Congress rather than the courts.

The second appellate decision questioning the Bush administration's assertions of unilateral authority also points to the need for congressional action. In *Padilla* v. *Rumsfeld*, the U.S. Court of Appeals for the Second Circuit in New York rejected

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Bush's claim that he has the power to designate citizens seized in the United States as enemy combatants and to hold them indefinitely without charges. The Court held that the president lacks any inherent authority, as commander-in-chief, to detain American citizens on U.S. soil outside a combat zone. It also held that Congress specifically denied that authority in 1971, when it passed a law declaring that "[n]o citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress." (The law was passed to avoid a repetition of the detention of Japanese-Americans during World War II.) In a dissenting opinion, Judge Richard C. Wesley argued that Congress actually did authorize the detention of enemy combatants whom the administration believes are connected to Al Qaeda when it passed a joint resolution after the September 11 attacks, which authorized the president to use "all necessary and appropriate force" against the people he determines planned or aided the September 11 attacks "in order to prevent any future acts of international terrorism."

It's far from clear based on that language whether Congress had in mind the detention of American citizens who are Al Qaeda sympathizers unconnected with the September 11 attacks, and, by construing the language strictly, the majority on the appellate court hoped to give Congress an incentive to make its intentions clear. Nevertheless, in a famous opinion rejecting Harry S Truman's unilateral attempt to seize the steel mills in 1952 in order to avert a strike, Justice Robert Jackson emphasized that, in reviewing broad claims of executive authority in wartime, courts should attempt to ensure a "workable government": If courts insist on interpreting Congress's post–September 11 grants of power to the president too narrowly, his practical ability to respond to serious threats of international terrorism might be hampered.

But, again, instead of second-guessing the source of the president's detention power, the appellate court could have focused on a question more directly in their area of competence: Namely, after the president has designated an enemy combatant, what legal rights should he be entitled to? In a thoughtful opinion at the end of 2002, Judge Michael Mukasey, a district judge in New York, insisted that all citizens whom the president has designated enemy combatants should be entitled to meet with lawyers in order to challenge the factual basis on which they have been detained. By ordering that Jose Padilla be charged or released, the appellate court surrendered their opportunity to review the crucial question of lawyers and procedures for enemy combatants. As Peter Margulies of Roger Williams University argues, courts might instead recognize the president's implied power to detain enemy combatants but insist that it be accompanied by guarantees of counsel, fair procedures, and time limits on their detention. (The Supreme Court will have the opportunity to do just that in the case of Yaser Hamdi, which they agreed to review last week. But, because Hamdi, unlike Padilla, was seized on the battlefield of Afghanistan, he presents a less sympathetic case for civil libertarians.)

Even if the appellate court went too far in insisting that the president can't detain enemy combatants without explicit congressional approval, the judges were certainly correct that the detentions would be politically and constitutionally easier to defend if the president asked Congress to authorize them. Our greatest wartime presidents have recognized that actions taken unilaterally in the middle of a crisis should be approved by Congress after the crisis has receded: For this reason, Abraham Lincoln asked Congress to justify his Civil War suspension of habeas corpus after the fact, and Congress quickly did so. Similarly, Franklin Roosevelt sought congressional authorization for his military tribunals, and Truman reported to Congress when he seized the steel mills.

Following the examples of Lincoln, Roosevelt, and Truman, Bush could ask Congress for a comprehensive bill authorizing and regulating the detention of enemy combatants and the creation of military tribunals. It's obvious that, if Bush doesn't ask, Congress won't act on its own. Indeed, a well-crafted bill to authorize the detention of enemy combatants was introduced a year ago by Representative Adam Schiff, a California Democrat, but has languished with few supporters in either party. Republicans aren't interested in passing even minimal procedural rights for suspected terrorists, and Democrats are more interested in bashing John Ashcroft than in thoughtfully balancing liberty and security.

If, by contrast, Bush were to support Schiff's bill or introduce his own as a sign of respect for Congress's constitutional authority, the bill would probably pass by bipartisan majorities. A comprehensive terrorism bill would give the administration all the authority it seeks in exchange for a measure of congressional oversight that the administration might prefer to avoid but could certainly live with. Such a bill could authorize the president to detain as enemy combatants those citizens and aliens whom he believes are connected to Al Qaeda and pose an imminent risk of terrorist attacks. It could guarantee the combatants access to lawyers and judicial hearings in which they could contest the factual basis for their detentions. And it could require judges to defer to the president's designation as long as there is a reasonable probability that facts exist to justify it. The bill could also authorize a temporary delay in the appointment of lawyers for enemy combatants in cases where the attorney general certifies that the delay is necessary for an ongoing interrogation. Finally, the bill could require the attorney general to justify the continued detention of an enemy combatant every six months—and to periodically report to Congress on the status of that combatant—to ensure that he or she doesn't fall into a legal black hole.

A bill along these lines would do more to protect American citizens from the arbitrary exercise of executive power than any number of judicial decisions trying to flyspeck the source of the president's authority to designate enemy combatants. It would remove any constitutional doubts about the president's authority and show a healthy respect for Congress's prerogatives as a coordinate branch of government.

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Why then hasn't Bush introduced such a bill? He believes that a show of humility before Congress would call into question his arrogant argument before the Supreme Court that the president can do whatever he likes without bothering to seek congressional approval. But now that his arrogance has provoked a backlash from judges who are as full of their own power as he is, the president may rediscover the virtues of asking Congress for all the help he can get. ■

Why Dean is right on taxes.

Tax Evasion

BY JONATHAN COHN

EVERYBODY KNEW Howard Dean's proposal to repeal the Bush tax cuts would prove controversial in the general election. But during the Democratic nomination fight, too? Over the last few weeks, rivals have attacked Dean for saying that, as president, he would rescind even those parts of the Bush tax cut that are not directed at the very rich. "Some in my party want to balance the budget on the backs of the middle class," John Kerry declared recently, in a typical broadside. "Too many middle-class people are getting pummeled everywhere they turn." Several polls suggest that most Democrats agree: The middle-class tax cuts should stay. Indeed, the political backlash against Dean is becoming so intense that, last week, Dean started talking about introducing his own tax-reform plan, an idea he first floated months ago but seemed to have dropped.

Maybe advocating total repeal of the tax cuts really is political suicide. But, whatever Dean decides to do, there's another question that commentators rarely ask: In policy terms, is preserving part of the Bush tax cuts a good idea? Dean has said no, that, in the end, "middle-class people [would] get a better deal from President Dean." And he's almost certainly right.

ONE REASON THE tax issue receives little policy analysis—as opposed to political analysis—is that it involves very daunting numbers. So let's keep the figures simple, starting with $4 trillion. According to the Urban-Brookings Tax Policy Center, that's roughly how much the Bush tax cuts are likely to cost in the ten years after 2005, when the next presidential term begins. That's a staggering sum of money and the central reason why all the Democrats running for president think at least some of the tax cuts should go.

But which ones? While Dean and Richard Gephardt want to roll back all of them (more on Gephardt in a minute), Kerry, Wesley Clark, John Edwards, and Joe Lieberman argue for repealing only those tax cuts that target the very wealthy—chiefly, reductions in the capital-gains tax, the estate tax, income-tax rates for the very wealthy, and various corporate income taxes. That would leave in place the child-tax credit, a rate reduction for the first few thousand dollars of taxable income, and other elements that benefit more downscale Americans.

The conventional wisdom seems to be that, since the Bush cuts are so heavily weighted toward the well-off, the middle-class cuts must make up only a small fraction of their overall cost. But the conventional wisdom is wrong. Roughly speaking, the tax cuts Kerry and the rest suggest keeping amount to half of the cost of President Bush's cuts overall. In other words, the monetary difference between total repeal and partial repeal is a full $2 trillion.

Although nobody talks about it, that's an *enormous* difference. The impact becomes clear once you realize that all the major candidates (again, excepting Gephardt) have proposed roughly the same amount of new spending, on everything from more generous college scholarships to near-universal health insurance. And all have pledged to significantly reduce the deficit, which, including the Bush tax cuts, could total $5 trillion over ten years. Doing those things simultaneously is just not plausible, since the new spending alone would probably soak up most, if not all, of the money available from partial repeal. Simply put, you can have the programs or you can make a significant dent in the deficit, but you really can't do both while leaving half of the Bush tax cuts in place. As Dean argues, "You cannot promise people tax cuts, college education, health care, and whatever else you want and say, 'Oh, it'll all be fine.'"

The choice, then, really comes down to this: Is the middle class better off with the parts of the Bush tax cuts that Dean's rivals would leave in place or with the $2 trillion less in deficits that Dean would produce over the next decade?

The case for Dean's approach starts with this crude analogy: Imagine, for a moment, you're a struggling middle-class family. You make just enough money to pay the electric bill, buy food, put gas in your car—but you also carry a huge credit card debt. Every month, the interest payments on the credit card get bigger, leaving less money for all the other necessities. Suddenly, your boss gives you a big raise. What do you do with the extra money? A vacation in the Bahamas would be nice; maybe a new car or furniture set, too. But, if you're smart, you'll pay down that credit card bill. If you don't, the balance will keep getting bigger, which means the interest payments will keep getting bigger, which means soon you'll have even less disposable cash than you had before the raise. And, when that happens, you can say goodbye to the travel agent and hello to the repo man, who'll soon be at your door for the furniture, the car, and maybe even your house.

That's what the current tax debate is all about. Thanks to the Bush tax cuts, an already huge federal debt is getting even bigger. The government pays interest on its loans, just like a household paying down a mortgage or carrying a

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large credit card debt. The bigger the interest payments, the less money is left for other purposes. And, when the government doesn't have extra money, it's not vacations or luxury cars that get eliminated from the budgets: It's school lunches, health insurance for pregnant women, homeland security, or, eventually, Medicare and Social Security benefits. You can already see this taking place. According to an article in *The New York Times* last week, Bush's proposed budget for fiscal 2005 includes cuts in spending on medical benefits for veterans, housing subsidies for the poor, and job training for the unemployed—naturally, while proposing further new tax cuts.

True, the government could just keep borrowing more money to pay its bills. But, eventually, the lenders would get sick of lending. At best, they would demand more money (i.e., higher interest rates) to keep underwriting American profligacy, which would slow down the U.S. economy. At worst, they would stop lending the money altogether, producing an Argentina-style financial calamity. It sounds insane, yes. But, just last week, the International Monetary Fund, which knows a thing or two about Latin American financial crises, issued a 60-page report warning that the United States had run up an "unprecedented level of external debt for a large industrial country," posing "significant risks" not only to the United States but to the entire world economy.

The counterargument traditionally favored by conservatives is that, even if tax cuts drive up deficits in the short term, households will spend the extra money, making the economy grow faster and—eventually—generating more tax revenue for the government. But the Reagan-era tax cuts, which were supposed to pay for themselves in this way, never did. That's one reason most liberal economists now think that reducing the deficit actually does more for the economy, since, when the government borrows less money, the private sector can borrow more, thereby boosting growth and tax revenue. (This seems to be what happened during the late '90s while Bill Clinton was in charge.)

Another counterargument, offered by Republicans and many Democrats alike, is a more straightforward moral appeal: The American middle class deserves, perhaps even needs, these cuts. "These are our people," Lieberman said in a recent debate. "They are hurting more today than I've ever seen them hurting in my adult life." And, indeed, when you consider the nation's growing income inequality—and the rising costs that parents, in particular, face from expenses like child and health care—the case for giving lower- and middle-income Americans tax breaks is pretty compelling, even if it means a greater financial sacrifice in the future.

But there's a fatal flaw in this argument: It assumes the middle-class tax cuts are really directed at people with average incomes. They're not, at least not exclusively. They're good for households making up to $200,000 per year—a level which, according to Citizens for Tax Justice, is higher than 95 percent of U.S. households. Sixty percent of households, by contrast, make less than $45,000 per year. In other words, most of the so-called middle-class tax cuts actually go to people considerably better off than the average American. This is why two seemingly contradictory facts can be simultaneously true: Most of the money in the Bush tax cuts went to the wealthy, yet the partial repeal Clark, Kerry, and the others advocate would generate relatively little revenue.

Ironically, if any of Dean's rivals can make a plausible case that his policy approach is superior to Dean's, it may be Gephardt. After repealing the whole Bush tax cut, he'd plow the entire savings into a very generous national health insurance plan. He wouldn't really reduce the deficit, true, but then neither would the Democrats urging only partial repeal. And, compared with them, Gephardt would probably do more for lower- and middle-income Americans. For example, according to estimates made on behalf of the Gephardt campaign, the average American making between $17,000 and $31,000 would get just $369 per year from the Bush tax cuts but the equivalent of $1,329 from the Gephardt health plan; Americans making between $31,000 and $50,000 would get just $742 from the Bush tax cuts but $2,182 from the Gephardt health plan. If you're willing to ignore the debt and want simply to throw money at the lower and middle classes today, then repealing the entire tax cut and transforming it into a national health insurance plan may be a better way to go.

AGAIN, NONE OF this is to deny the obvious political perils of Dean's (and Gephardt's) approach. If Democratic spin-meister Chris Lehane (currently on Clark's payroll) can demagogue their proposals as a middle-class tax hike, think what Karl Rove could do. But the media has largely abdicated its responsibility to report on the substance of this issue, focusing almost exclusively on how Dean's stance will play in the campaign. Worse, on those rare occasions when reporters or pundits have dipped into the substance of the tax debate, they've gotten it wrong. Typical was this line in a late December article in *The New York Times*, apparently oblivious to the fact that Dean's numbers actually make sense: "[T]hough all [the candidates] have attacked the president for record deficits that could total $5 trillion over the next decade, none have offered more than hazy proposals for balancing the budget." A recent *Washington Post* editorial on Dean contained an even more unfair slight, attacking him for not being honest about the need to cut the deficit and save money for Medicare and Social Security—the very position that is getting him into so much trouble. "Mr. Dean's stance would be more responsible ... if he were not so quick to turn around and promise to spend all those tax savings and not so silent on how to address the looming crises in Social Security and Medicare."

One reason Dean may not get credit for his stance on taxes is because it plays against his stereotype. A main narrative of this year's campaign is the way Dean is pulling the Democratic Party away from its Clintonian roots, a point Dean's rivals hammer home in their speeches about taxes.

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As Lieberman said in another recent debate, total repeal "would mean a middle-class tax increase. Bill Clinton was for a middle-class tax cut." Well, sure. But the cuts Clinton championed in his 1992 campaign were far more modest, worth just $350 per family and only available for families making less than $80,000. More important, Clinton also pledged to reduce the deficit in half in his first term, a major reason he ended up discarding the middle-class tax cuts altogether in his first budget deal. That budget agreement was instrumental in a key Clinton accomplishment: eliminating the deficit—something Dean would do much quicker than his rivals. Don't forget, too, that another staple of Clintonism was the pairing of rights with responsibility—the idea that government could only help citizens willing to take some responsibility and make some sacrifices for their own future. Here's Dean, explaining his position: "We cannot keep telling people we're going to give them all the programs they want and then there's not going to be any sacrifice." Who's the real Clintonite now?

Of course, any discussion of how the Democratic candidates' tax plans would work out as policy are inherently surreal: It's virtually inconceivable that a Democrat would not only win the White House but bring in enough liberal Democrats to repeal the entire Bush tax cut. But the candidates' budget plans are important, because they tell us something about the men who stand behind them. If a candidate like Dean is willing to risk popular backlash by running against middle-class tax cuts, then he probably has far more resolve than his rivals to fight for fiscal responsibility. Maybe that's not the smartest thing to do politically, but it's the *right* thing to do substantively. Somebody ought to mention that once in a while. ■

Why we can't stop illegal immigration.

Borderline

BY TAMAR JACOBY

LAREDO, TEXAS

THE FIVE U.S. BORDER PATROL agents hovered around a desk in the hut at the 15-mile checkpoint on Interstate 35. All were strapping, blunt-faced men with revolvers on their hips, and there was no mistaking their seriousness of purpose. The Border Patrol's Laredo sector—one of nine along the southwest frontier—considers this Texas outpost, 15 miles from Mexico on the major artery from South and Central America into the U.S. heartland, its "major defense" against unauthorized alien penetrations. Closed-circuit TV screens bathed the room in a somber gray light; contraband-sniffing dogs yapped noisily at the traffic outside. And now the men were clustered intently around a computer terminal, apparently checking if a newly arrested suspect was linked to organized crime or terrorist activity. Clearly, they had caught someone—maybe even someone of interest.

It was hard to know what to make of the incongruity when the knot of men shifted and their prey came into view. There were three of them, and the young, shy-looking woman—it was impossible not to think "girl"—was doing the talking. Small, slender, in jeans and a sweater, she looked as if she had come straight from hanging out with friends at the mall. Her cousin and younger brother—who turned out to be only 13—were even less prepossessing.

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The agents conducting the interrogation were pleased by the collar, but even they seemed nonplussed. They had nabbed the trio on a bus with what one officer called "50-yarders"—identity documents so poorly forged you could tell they were counterfeit from that far away. The teenagers had waded through the river several hundred miles downstream and were now making their way via Greyhound to Houston, where they said they had family. Their fresh-looking jeans and rucksacks, plainly purchased on this side of the border, suggested that someone in Houston was paying handsomely for the trip. And not only one trip, it turned out. Running the kids' photos and fingerprints through the computer, agents found they had made the trip three previous times in the past two weeks—made the trip, been caught, had their papers confiscated, been deported back to Mexico, bought new papers, crossed again, and once again been caught, albeit each time on a different bus route. No wonder the agents were flummoxed. One of the best-equipped, most professional agencies of the U.S. government was playing cat-and-mouse with three teenagers—and it wasn't clear who was winning.

Striking as it seemed, the episode was far from unusual. Despite a historic buildup of forces on America's southwest border—the number of agents has nearly tripled in a decade, and budgets have multiplied even faster—there has been no appreciable decrease in the number of illegal migrants entering the country. New strategies and new technologies have significantly raised the probability of getting caught, but this stops almost no one. Like these teenagers, migrants just try again—often in more remote border areas where the United

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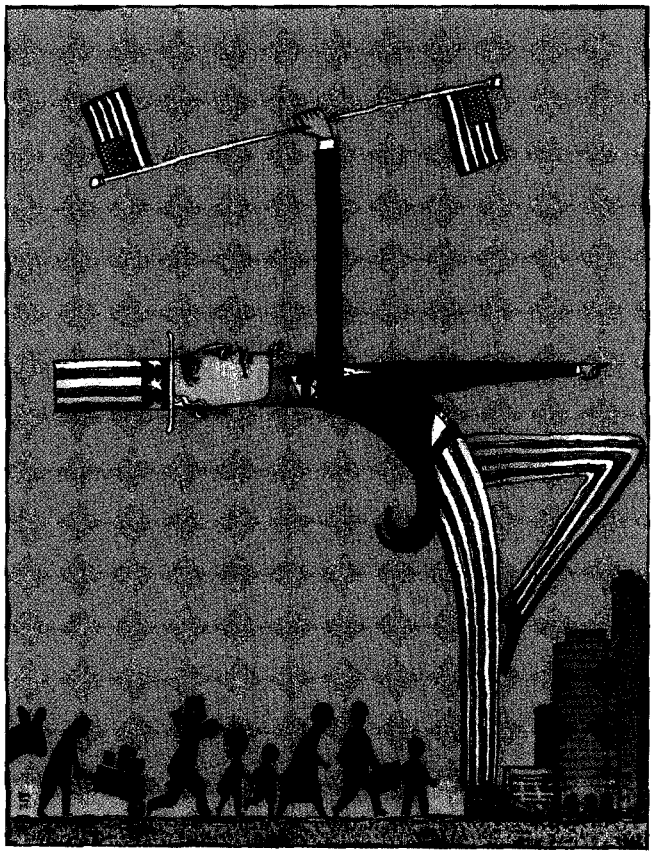
States has fewer agents and less sophisticated defenses. In the Laredo sector alone, the Border Patrol catches between 100 and 200 people per day; the daily figure for the entire frontier is about 2,500—some 932,000 last year, according to the Department of Homeland Security (DHS). And, in all but a handful of cases, after a few hours detainees are escorted back to the border and released—free to try again. It's impossible to calculate how many actually get through, but estimates run as high as half a million per year.

This failure has dire consequences for America's security, its economy, and the rule of law. Clearly, the immigration system is broken, and enforcement alone—whether on the border or in the heartland—isn't going to fix it. Which is why President Bush's proposal to create a guest-worker program that would divert the illegal influx into legal channels and legalize up to eight million undocumented laborers already in the country is such an important development. The initiative isn't perfect, but it is a bold step in the right direction, all the more significant coming from a Republican president. Not that its boldness has insulated the proposal from heavy criticism on both the left and the right. Hardly a Democrat has a good word for it, and the conservative blogosphere has gone ballistic. Presidential candidate Howard Dean claimed it would do nothing but "help big corporations," while paleocon Pat Buchanan denounced it as a "blanket amnesty." Some, like UPI columnist Steve Sailer, even suggested that the plan might justify "conservatives sitting out the November election, voting for a third-party candidate, or, in the ultimate extremity, voting for the Democratic nominee." Yet critics—particularly those in Congress, who now must choose whether or not to take up the president's proposal—would do well to recognize it as a key first step and an opportunity to be seized. After all, if something isn't done, the problems posed by illegal immigration are only going to get worse.



The flow of immigrants into the United States is inevitable. We should make the most of it.

ROBERT MEGANCK

A VISIT TO the border is a troubling experience, not least for security reasons. Although, according to an investigation by the Associated Press, not a single terrorist suspect has been apprehended on the U.S.-Mexican border in the years since September 11, 2001, we plainly need to patrol our southern frontier. Even if we never catch a terrorist there—and most agents believe would-be terrorists have the savvy and resources to choose other routes—we need to know who is entering the country and to control the number of immigrants we admit. But border enforcement as we know it is an exercise in futility. In 1986, hoping to eliminate the underground population that had accumulated from decades of unsanctioned migration, Congress passed legislation legalizing nearly three million undocumented workers. Today, the number of immigrants without papers has crept back up to more than eight million—the highest in U.S. history. And our attempts to catch them once they have established themselves in the United States are even less effective than our efforts to control border-crossings. In October, in a rare battery of workplace raids, the DHS made national news by arresting exactly 250 of the eight million: overworked janitors, mostly Mexican and Eastern European, employed by Wal-Marts. Authorities hope these arrests and the prosecutions to come will have a chilling effect, but, like the endless apprehensions on the border, they seem unlikely to make much of a dent.

In fact, the more one looks at these futile enforcement efforts, the more they recall an earlier era in our history: Prohibition. The problem with Prohibition, as every schoolchild knows, was that it was so out of sync with reality, so remote from human behavior and established economic patterns, that it had no hope of succeeding. It's not that alcohol is beyond government control. Realistic regulations—liquor licensing, blue laws, import duties, and the like—work effectively to keep both sales and use in check. But, by overreaching, Prohibition did far more harm than good, producing a national black market, a many-tentacled web of international smuggling, widespread criminal activity by otherwise law-abiding citizens, and underworld violence of a kind not seen before or since.

The parallels with our current immigration policy are already apparent. The failure to regulate our southern border has eroded the rule of law throughout the country. Hundreds of thousands of people migrate to the United States each year and join those living on the margins of

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American society with false identities and counterfeit documents. California alone is home to more than two million illegal residents; New York state to more than one million. Undocumented workers fear police and other authorities, thereby undermining law enforcement in their communities. They come to believe that U.S. laws, like the immigration code, are meant to be winked at. Their illegal status also hurts Americans economically: Because illegal immigrants can't bargain for better, they undercut wages and work conditions for native-born laborers. And the consequences of forcing millions of people underground are deeply corrosive to our political values. After all, what kind of democracy depends for its livelihood on a vast pool of noncitizen non-persons who cannot participate in civil society?

The problem does not stem from a lack of will on the part of the Border Patrol. On the contrary, the agency has all the hallmarks of a dedicated, professional force, and it has shrewdly modernized both tactics and strategies in recent decades. Thirty years ago, enforcement in Laredo was a very different business: more Wild West than modern military efficiency. The entire Border Patrol had fewer than 2,000 men, a budget under $100 million, and its main task, at least in Laredo, was keeping the city free of vagrants, shoplifters, prostitutes, and the like who drifted over from the Mexican town of Nuevo Laredo. Then, in the mid-'70s, the illegal flow started growing and the border buildup began. Today, the Border Patrol boasts nearly 11,000 men, and—including expenditures by other, related DHS agencies—the total amount spent policing the southwest frontier exceeds $9 billion. The most important changes stem from a new strategy, introduced in the mid-'90s, based on the notion of "prevention through deterrence." Today, in Laredo, agents are stationed like sentries high on the bluffs overlooking the Rio Grande, where would-be immigrants are sure to see their SUVs. Stadium lighting, 24/7 remote video monitors, seismic motion detectors, and other high-tech devices guard the well-worn paths up along the riverbank. And, as soon as migrants are detected, officers swoop down to arrest them. The force's computer system is state-of-the-art; central authorities track trends carefully and allocate resources accordingly. Indeed, it's hard to see what else they could be doing to stem the tide.

These improvements seemed successful at first. In Laredo, apprehensions shot up, then declined significantly, suggesting that would-be immigrants were being deterred. (Lacking any other way of measuring the flow, researchers use apprehensions as a proxy for the number that get across.) But apprehensions along the entire border, from sea to sea, did *not* decline during the '90s. Migrants simply moved their operations to more remote desert terrain. And, while increasing numbers die at those new crossing points, no fewer ultimately seem to make it into the United States. On the contrary, the illegal population is growing faster than ever. Apprehensions did fall somewhat in 2001, but no one who studies the issue can confidently tell you why: It could have been better enforcement, but it could also have been the sagging economy or new habits among migrants who, though not deterred from coming, now seem to visit home less frequently. And, whatever the reason, according to the Border Patrol, in 2003 apprehensions were on the rise again. "The best we can do is manage the border, not control it," Laredo Assistant Chief George Gunnoe explained ruefully. "'Manage' means we can account for all the entries. But, even with all the resources in the world, you won't stop the flow. Even if we shut the southern border, they'd come across the northern border and up along the coasts."

THE REASON, OF COURSE, IS ECONOMIC. Mexicans have accounted for the lion's share of farmworkers in the United States for more than 60 years, since we first started recruiting them for that purpose during World War II. The only thing that has changed from decade to decade, depending on U.S. policy, is whether they come legally (as immigrants), illegally, or as temporary guest workers. In many regions of Mexico, migration has become a way of life: Many villages, now effectively bedroom communities for dependent families, sustain themselves by exporting their able-bodied men. Of course, the market for low-skilled labor has expanded, and Mexicans now fill many other dirty, low-wage jobs as well. But, as study after study has found, it is the economic climate—wage levels in the United States, wage levels in Mexico, unemployment, the exchange rate—that most affects the flow of Mexican workers, not border enforcement.

I caught an unusual glimpse of the flow—and why it is so hard to control—in Laredo. The Border Patrol was experimenting with a new program for deporting people apprehended while attempting to cross the desert in Arizona, and the Mexican consul decided to interview them, one by one, as they stepped onto Mexican soil. I watched one sunny afternoon as a batch of 150 people filed across the international bridge—tired, hungry, dirty, almost all of them men in their twenties. And I couldn't help noticing the way they carried themselves: neither particularly surprised by how they were being treated nor, apparently, discouraged. Some 20 percent told the consul frankly that they were going to try again straightaway. Another 10 percent said they were going to stay in Nuevo Laredo—another way of saying they would try again, since there could be no other reason to hang around in the sleepy border town. And, according to consulate staff, even those who declared they were going back to their home villages said it was to regroup for another attempt. Almost every man I spoke to had been to the United States before; indeed, a number had lived here many years, and several were on their way back to regular jobs. But even those making the trip for the first time had a destination in mind and information, from a relative or fellow villager, about a likely job. And that was when it struck me: They were just people on their way to work. This trip was turning out to be somewhat longer and more frustrating than usual, but, in truth, it was much as they expected—simply part of the price they pay for employment in the United States.

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Meanwhile, although U.S. law enforcement is having no appreciable effect on the size of the flow, we are making it more and more necessary for migrants to avail themselves of "professional" help—effectively spurring the growth of a vicious criminal underworld. More and more migrants pay smugglers to bring them across: One estimate, by the Public Policy Institute of California, suggests that nine in ten now use a "coyote." Smuggling fees have increased dramatically, from a few hundred dollars a decade ago to as much as $2,000 today. And, as the business becomes more lucrative, it also becomes more organized: Big-time criminal gangs seek to get involved. According to local law enforcement, several international drug-smuggling rings are now beginning to dabble in the human trade. Much of this new criminal activity is in Arizona, because that's where border enforcement has shunted the traffic. Crime is soaring in Phoenix: not just document fraud, long endemic in the illegal community, but murders (up by 45 percent in the last ten months), money-laundering ($160 million was funneled through the city in one six-month period in 2003), kidnappings, and extortions. Smuggling cases have increased by 50 percent since 1998. The DHS's immigration- and customs-enforcement division has recently apprehended a bumper crop of illegal weapons: everything from assault rifles to automatic handguns. And, in early November, a shoot-out on an Arizona highway—probably between two rival smuggling gangs—killed four people and caused a wreck involving three other vehicles that happened to be traveling on the interstate.

WHY HASN'T ANYONE, Democrat or Republican, taken action before now to remedy our disastrous border policy and the Prohibition-like activity it is spawning? The failure of what critics call an "enforcement-only" approach came to the surface with a vengeance in the summer of 2001: That year, as intensified patrolling blocked the easiest paths in places like Laredo, some 336 Mexicans died trying to cross the border in remote desert regions. Prodded by the deaths and by the way newly elected Mexican President Vicente Fox was engaging the White House, pro-immigration Democrats and Republicans, business lobbies, labor unions, and immigrant advocates suddenly got serious about trying to work out a bipartisan solution. In July, the Bush administration leaked to the press that it, too, was crafting a reform package.

Then, after the September 11 attacks, all talk of immigration reform came to an abrupt halt. For two years, the Bush administration sat on its hands rather than spend political capital opening a border that Americans, more than ever, wanted to close. It wasn't until this summer that more horrific deaths along the frontier prompted both Democrats and Republicans to introduce reform bills in Congress. Some of the more interesting were initiated by border-

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state Republicans—including Senator John McCain, Representative Jim Kolbe, and Representative Jeff Flake, all of Arizona—who saw the havoc that unrealistic efforts to stop the flow were wreaking in their jurisdictions. But, without a bipartisan proposal or backing from the president, it was all but impossible to make progress. Business wanted a reliable stream of workers but was less enthusiastic about labor protections. Unions and their Democratic allies wanted to legalize the undocumented workers already in the country but were wary of guest-worker programs. And the Republican Party was split down the middle—divided between a pro-immigrant business wing and rank-and-file voters tempted by the siren song of restrictionism. The one promising bipartisan measure introduced this fall was a compromise known as the Agricultural Job Opportunity Benefits and Security bill, which would create a new guest-worker program and a path to legalization for up to half a million Mexican farmhands. A balanced bill with some four dozen Senate sponsors, half Democrats and half Republicans, it stood an excellent chance of passing—until it was held up in subcommittee by Saxby Chambliss, a Georgia Republican with restrictionist leanings.

It was into this morass that the president waded last week. Though he plainly has political motives, that doesn't mean he isn't serious, and his proposal—which would apply to all types of workers, not just farmhands—could form the basis of the kind of comprehensive, bipartisan reform that's needed. In many ways, it builds on the work going on behind the scenes since before September 11, 2001: most important, the recognition, widely shared among reformers, that the migrant flow is inevitable and that we should aim to manage and make the most of it, not try futilely to interdict it. The Bush administration aims to do this through a temporary-worker program open both to illegal laborers already in the United States and others, not yet arrived, who would like to find jobs here. There would be no limits on the number who could participate: Anyone with a job or a job offer—theoretically the entire illegal immigrant workforce of eight million or more. Participants would enjoy full labor rights, they could get driver's licenses and health insurance, those who wished could bring their families to the United States, and they could travel freely back and forth to their home countries—life-altering improvements to the way they live now. The proposal would provide a steady stream of reliable laborers for industries—from agriculture to the restaurant business—that now rely on an unpredictable, illegal work force. With its realistic guidelines, instead of the current unworkable prohibitions, it would help restore respect for the rule of law in immigrant communities. And it would enhance national security, regularizing and regulating border-crossings and freeing up resources so law enforcement could zero in on more suspicious aliens. Altogether, it's hard to exaggerate the difference even temporary legalization could make—for immigrants and for the rest of us.

But the Bush proposal has a critical flaw: It makes no provision for these temporary workers to become citizens. On the contrary, administration officials have repeated over and over that they expect most participants in the program eventually to return to their home countries. In fact, President Bush has proposed an array of incentives to ensure that they do, including portable Social Security benefits that immigrants could not collect until they left the United States. This is no accident: The president is bowing to political pressure from the Republican right, which sees legalization as an immoral "amnesty" and—probably more important—dreads the prospect of any new citizens, let alone eight million or more, likely to vote Democratic. But, by failing to provide a better track to citizenship, Bush's proposal undercuts the gains it hopes to make. Imagine, for example, a Mexican short-order cook who has been in the United States for 15 years, working, paying taxes, and raising children born here, who are American citizens. Mexico is no longer his home country; the United States is. And yet, rather than reward him for working hard and assimilating, the president's proposal bars him from full membership in U.S. society. If the cook is smart, he won't sign up for the program or will simply skip out and return to the shadows before he and his American family are due to go "home." Without an adequate bridge from the temporary-work program to a full-fledged citizenship track, the president's proposal cannot hope to eliminate the underground economy and will only perpetuate a permanent foreign-born underclass.

The problem is not insurmountable—Bush has not ruled out creating a bridge between a temporary-work program and the existing citizenship track. Indeed, the administration seems willing to lift the barriers that now make it extremely difficult for undocumented workers to apply for green cards—the first step toward citizenship—and has suggested augmenting the number of cards issued each year. The increase required would be substantial. But, rather than dismiss the president's proposal, Democrats should jump at this opportunity to negotiate a better reform package. Although Bush is never going to accept a plan that puts all temporary workers *automatically* on the road to citizenship, as reform advocates once hoped, Democrats can widen the path—whether by adding green cards or creating some other mechanism. Admittedly, success would come with a heavy political cost, giving the president a big victory in what may be a close election year. But Democrats would be making a big mistake to allow this opportunity to pass. Without Bush's leadership, there is virtually no chance that a majority of Republicans will acknowledge the inevitability of the unskilled migrant flow, and they will not support reform. Conservatives who criticize the Bush proposal as an unprincipled "amnesty" assume that there are alternatives—that we can simply crack down harder on the border and enforce any quota we like, no matter how unrealistic. But we can't. Mexican workers want to fill jobs in the United States, and they will continue to find ways to enter the country. Without immigration reform, it will be business as usual on our southern frontier: more futile law enforcement, more migrant deaths, and more crime. Just ask the Border Patrol agents in Laredo. ■

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What are the facts?

Negotiators without standing: Yossi Beilin, the "negotiator" for the Israeli side, has no official standing at all. He is a former minister of justice, but has been repudiated by the Israeli electorate. His Arab counterpart Yasser Abed Rabbo has no standing either. He is said to have Yasser Arafat's ear, whatever that may be worth.

This is extraordinary. It is as if an American citizen, say, for instance, Al Gore or Pat Buchanan, were to negotiate with an Iraqi confidant of Saddam Hussein about the American-Iraqi relationship.

Apart from the sheer illegitimacy of this process, provisions of this Accord need examination. They are, without exception, damaging to Israel, which, as usual, is asked to make all "concessions." If this Accord were to come to fruition, it would threaten the very survival of Israel as a Jewish state. The Accord cedes the Temple Mount, the Jewish people's holiest of holies, the focus of its two-thousand-year yearning, to the "Palestinians." Jews could be admitted only at the sufferance of the Muslims. Why would any Jew concede the very soul of his people and of his nation? Would the Muslims concede Mecca, would the Catholic Church concede the Vatican?

But there are equally or perhaps even more weighty matters than these "sentimental" considerations. Under this Accord, Israel would agree to almost total withdrawal from Judea/Samaria (the "West Bank") and Gaza, dramatically increasing the number of "settlers" who would have to be repatriated. Since the Accord considers them to be "illegal occupiers" no compensation would be conceded to them. Under the Accord, the high ground dominating the Tel Aviv region and the central coastal strip would be in "Palestinian" hands. More than seventy per cent of Israel's population lives in that area and most of its industrial and military capacity and its major civilian airport are located there. Only a fool could believe that the Arabs, who have broken every provision of the vaunted Oslo Accord, would not avail themselves of the opportunity of critically damaging or, if possible, totally destroying the Israeli state.

Israel naked before its enemies: Further, the suggested transfer of the Jordan River Valley, Israel's first line of defense against attack from the east, would put it into an untenable military position. Any safety net, any viable security for Israel would disappear. Israel would lie virtually naked and helpless before its mortal enemies if this disastrous Accord were ever implemented.

> "The Geneva Accord is a Trojan Horse, meant to destroy the State of Israel. The world and Israel should firmly repudiate it."

The Accord is ambiguous about the so-called "right of return." There is apparently no longer insistence that *all* "refugees" be allowed to settle in Israel. The "refugees" are the descendants of those who, at the urging of the Arab armies that invaded the Jewish state at the very day of its founding, fled the fighting. There were about 500,000 of them; they have now miraculously swelled to five million. Nobody talks about returning the millions of German refugees to what is now Poland and Czechoslovakia, and nobody dreams of compensating them. But under the Geneva Accord, all those "refugees" are to be paid "compensation," which could amount to hundreds of billions of dollars. Significantly, no compensation is countenanced for the about 800,000 Jews, who were expelled or who had to flee for their lives from the Arab countries, where in most cases they had lived for over 1,000 years.

Under the Geneva Accord, Judea/Samaria (the "West Bank"), which, together with Gaza, would form the "Palestinian" state, is to be free of Jews, made *judenrein*, in line with the Nazi model. But how about the over one million Arabs who live and prosper in Israel? Would it not be fair and reciprocal if they were transferred from "Israel proper" and were moved into the new "Palestinian" state? The Geneva Accord does not address this obvious question, and nobody else does either.

If the Geneva Accord were accepted and implemented, it would be an unmitigated disaster for Israel. It would give its holiest site, the very essence of the Zionist dream, to its Arab enemies. It would accept perhaps hundreds of thousands of so-called "refugees," which would thus finish Israel as a Jewish state. It would make Israel militarily indefensible. The Geneva Accord is a Trojan Horse, meant to destroy the State of Israel. The world and Israel should firmly repudiate it.

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BOOKS & THE ARTS

STANLEY KAUFFMANN ON FILMS

Two Actors

SO MANY ELEMENTS IN FILMmaking have become so dependably fine—cinematography, editing, production design—that by now only the exceptions are surprising. Screenwriting is a great deal more variable: the good work of the designers and others is often wasted on trash. Acting, however, is less variable, because most film scripts don't demand much more than verisimilitude from the cast, and many film actors, especially those with salable personalities, are skilled in what might be called behaving—without much distinction between what is on camera and what is off. But occasionally a role comes along that demands of the actor a process much more exigent than mere credibility, that requires investigation of self, creative process, risk.

HOUSE OF SAND AND FOG (DreamWorks)

MONSTER (Newmarket)

One of the most pleasant experiences for a viewer is to see an actor who has sailed along expertly on personality shunt it aside in order to embody someone else. It isn't necessarily a matter of costume or accent or any of the easier changes. In one of the least appreciated gems of recent American acting, Jack Nicholson became Jimmy Hoffa. Nicholson did use an accent, a prosthesis, and a physical pattern unlike anything he had previously done, but he went through a much more subtle metamorphosis. Every moment that Hoffa was on screen, he seemed to be carrying his whole past life along with him, as basis and cause. Earlier in his career, when Nicholson played an ex-astronaut in *Terms of Endearment*, he had carefully coaxed his usual easygoing attractive self to grow over-ripe and pulpy, like fruit left out of the refrigerator too long. Here there was no accent, no false teeth—just the effluvium of disappointment and self-disgust that floated toward us on nylon charm. (And his achievement was inevitably even less noted than his more evident one in *Hoffa*.)

This matter of metamorphosis—becoming someone else—is far from the whole of acting, but it comes to the fore just now because of two current performances. The first is Ben Kingsley's in **HOUSE OF SAND AND FOG**. Kingsley's capacity for self-transformation has been marvelous for years: most of us became aware of someone else in his body before we knew much of the original Kingsley. His Gandhi, whatever one thought of the film as a whole, seemed to be a purification, a disregard of acting, even while it was of course a manifest of talent. Then came, among others, the smart London publisher in *Betrayal*, the Turkish spy in *Pascali's Island*, the quietly heroic Jewish accountant in *Schindler's List*—performances that enrich the lives of viewers. (On Broadway in 1983 he tried with his whole soul to play the great English actor Edmund Kean, but he couldn't quite achieve the genius of the man who, said Coleridge, revealed Shakespeare "by flashes of lightning.")

Now Kingsley appears in *House of Sand and Fog*, an odd piece by Vadim Perelman derived from a novel by Andre Dubus III. Quite clearly Kingsley took the role because of its challenges—it couldn't have been because of the cogency of the script. He plays an Iranian, formerly a colonel in the Shah's air force, now an American citizen living in Los Angeles, who works two jobs to support his family. He devises a scheme to make money by buying at auction a house that the state has seized for delinquent taxes, refurbishing it, and selling it at a large profit. The plot that follows, including the wretched young woman who lost the house, is of interest only insofar as Kingsley supports the structure with a powerful man. The colonel's accent is the easiest part of it, but the voice, the timbre, the touch of authority now kept in check, the ethos of a very different culture, the quiet superiority to the society to which he is nonetheless grateful for security, and a range of emotional truth from amusement to immense grief—all these are matters that are present without being displayed as actor's achievements. They are simply the man before us. To do that kind of acting requires long experience plus the ability to subsume one's talent.

Charlize Theron in **MONSTER** is a quite different subject. She is an especially attractive young woman who, up to now, has done quite adequately everything required of her. (Including a role in a Woody Allen picture.) Most of us, if asked to choose an actress to play a blowsy, overweight roadside prostitute who becomes a serial killer, would not have put Theron high on the list. But a first-time director named Patty Jenkins, who had made only a couple of shorts, chose Theron.

Jenkins has been justly praised for the screenplay that she wrote, based on the life of a woman named Aileen Wuornos, and for her close, immediate directing, but she has been insufficiently admired for her perception about Theron. The director must certainly have worked with Theron on her performance. The lovely Theron put on at least twenty-five pounds and was appropriately stained and bedraggled. This could be done to anyone. With Jenkins's help, Theron makes every word from Wuornos's mouth—usually foul—simmer up from the ghastly background and the vicious struggle of this life.

Wuornos is a woman who lives by instant gratifications, blasting changes of mood, excavating hollowness of spirit, and moral numbness. She murders some of her customers, first in self-defense, afterward in mere irritation, never with anything like regret. So intense is Theron's acting that she changes the film itself. From the start her performance is pungent, but we feel at first—about the picture as a whole—a sense of reportage. (In fact two documentaries have been made

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about Wuornos, neither of which I have seen.) But as *Monster* proceeds, the documentary quality fades. Wuornos ceases to be a social type about whom something should be done. She becomes a wretched individual facing one day after another with an anger that cloaks fright. Theron's performance changes the film's texture to the drama of an individual.

A plot winds around Wuornos's life, mostly concerned with a young lesbian from an orderly home who is played with tenderness by Christina Ricci, but it is Theron who transmutes and sustains this journey through the lower depths. Her work here piques curiosity about her future. She has already made another feature and a television film that apparently return her more or less to the Theron we knew. Fine; but *Monster* makes us hope that there are other anomalies in her future.

Wuornos was eventually arrested in Florida, tried, and sentenced to death. Toward the end of her lengthy stay on Death Row, Jenkins corresponded with her. After the execution in 2002, Jenkins gained access to her letters and occasionally a voice-over quotes from them. Essentially, those quotes sound like a woman striving for bravado on the road to inescapable hell. ■

Robert Brustein on Theater

Angels and Beards

Tony Kushner's new play, **Caroline, or Change** is a formal anomaly. It has been hailed as a breakthrough musical created by a confident professional collaborative—vigorous score by Jeanine Tesori (*Thoroughly Modern Millie*), lively choreography by Hope Clarke (*Spunk*), and dynamic staging by George C. Wolfe (*Jelly's Last Jam*). It is actually a social-political verse play in couplets and quatrains that might have been better understood had it appeared alone without musical credentials.

CAROLINE, OR CHANGE
(The Public Theater)

THE BEARD OF AVON
(New York Theatre Workshop)

Playing on the pun in the title, which alternately refers to the small change left in a child's pocket and the concept of social progress or reform, Kushner has set out to dramatize the changes in race relations that were occurring in the South, notably Lake Charles, Louisiana, around the time of the Kennedy assassination in 1963. Like his other plays, *Caroline, or Change* affects to tell a political story through the agency of a personal anecdote, presumably autobiographical—in this case, a conflict over money between an angry black maid and a spoiled, precocious eight-year-old Jewish boy.

In addition to its verse form, the play is something of a departure for the man who wrote *Angels in America*, *Slavs!*, and *Homebody/Kabul*. For one thing, there is not a single homosexual reference in the entire evening. For another, Kushner has buried his theatrical sophistication inside a simple nostalgic style more appropriate for dramatizing the end of childhood innocence. The story of Noah Gellman, the child, and Caroline Thibodeaux, the maid, takes place against the background of a time when blacks and Jews essentially stopped being allies in the war against racism and—divided by the growing influence of Black Power—started exploring their resentments instead.

Kushner has chosen a tone for this story that is deliberately naïve and derivative. He has anthropomorphized the laundry room where Caroline works in the manner of children's stories like "The Little Engine That Could" and "Goodnight Moon," so that objects such as the Washing Machine, the Dryer, the Bus, and the Moon are played by a variety of black characters, while the Radio is embodied by a Motown trio in teased bouffant hair styles that recall the Supremes (or, more accurately, their *Dreamgirl* equivalents). Noah's mother has died prematurely, and his stricken father has taken refuge in his clarinet. As a result, Noah's perception of the world seems to be washed in the same kind of aching wonderment found in the works

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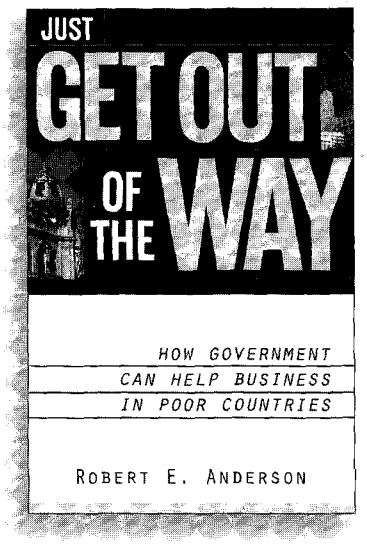

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of James Agee, particularly his elegiac tone poem, "Knoxville: Summer of 1915." Set to music, Agee's piece had the advantage of an exquisite score by Samuel Barber that captured all of the longing and loneliness of a Southern childhood. Would that *Caroline, or Change* came similarly equipped. It is not that Tesori's Blues/Broadway/Klezmer music is unlistenable. Some of it, notably the Motown trios, is quite galvanic. The problem is that it is much too inescapable. Like so many musicals today—most recently, the terminally cute *Avenue Q*—it has wall-to-wall scoring (only one line in the play is spoken). But unlike, say, Stephen Sondheim's *Passion*, which is also completely sung, it lacks the operatic depth and texture that might justify all that sound surround.

Sondheim, moreover, designed his text for *Passion* as a libretto. Whatever Kushner's original intention with *Caroline, or Change*, it is clearly the work of a dramatist rather than a lyricist or a book writer. As a result, much of its literary subtlety and coherence are lost in the musical wrappings. Consider the following passage, a lament sung by a Bus that arrives late because of the assassination of President Kennedy:

> The earth
> the earth has bled!
> Woe-singing wind down the
> neighborhood.
> He is gone now! Gone for good!
> Deluge flood ice water rise.
> Tear your hair your clothes
> your eyes.
> Sisters, shed
> tears of blood.
> The earth has bled!
> Now come the flood.
> Apologies for being late
> making everybody wait....
> I am the Orphan Ship of State.

This is not great poetry, but it is certainly a legitimate stab at the Whitmanesque, and like Kushner's comic doggerel ("Chanukah Oh Chanukah,/oh Dreidel and Menorah!/We celebrate it even though/it isn't in the Torah!"), it has more emotional weight falling on the ear as spoken language (or perhaps as a dreidel song) than as a show tune driven by a pit orchestra. I emphasize this because such creative mismatching may have helped to spark some critical misunderstanding. THE NEW REPUBLIC's television critic, Lee Siegel, taking a moment off from his prosecution of all the culprits responsible for the HBO version of *Angels in America*, remarks in an aside that *Caroline, or Change* represents Kushner's "typical brand" of "sentimental, historical carpet-bagging." There may be a bit of self-satisfaction in this semi-fictionalized piece of history about race relations in the South, but it is too closely experienced to be dismissed as "carpet-bagging," unless Siegel believes that white people have no business writing plays about blacks. I assume that he does not, though he does indict Kushner for being "a Jewish playwright mindlessly exploiting the black experience." As for sentimentality, if there are traces of that in the score, there are none in the text. And I saw no evidence either of the "condescension" that Siegel imputes, based on his erroneous assumption that "there is not a single black character in *Caroline* who is not a mammy, a pickaninny, a shvartze, or an entertainer with lots of rhythm."

Actually, at least two of the characters in the play are black activists. And unlike the kindly black chauffeur in *Driving Miss Daisy*, the black maid Caroline is no long-suffering martyr to imperious Jewish employees. She is "always mad ... sad and angry all the time," less one of Faulkner's "enduring" female black saints than a cranky injustice collector. Noah's officious stepmother, Rose, who hails from the North, seems to have the typical liberal delusion that the way to redress economic inequity is not through radical reform but rather through acts of individual charity. Indeed, it is her mistaken idea—that Caroline should keep any money she finds in Noah's pockets in order to augment her salary—that leads to the big explosion in the play.

Noah has forgotten to remove his Chanukah gelt from his dirty pants—a twenty dollar bill from his Marxist grandfather—and Caroline, who has hitherto refused to take smaller sums from a babe, pockets it for her family. In frustration, Noah tells Caroline that President Johnson has built a bomb especially designed to kill all Negroes, and Caroline replies: "Hell's where Jews go when they die." This climactic scene leads to Caroline's temporary departure from the family, during which time Noah reflects on his guilt ("I did it. I killed her") and Caroline on her rage ("Don't let my sorrow/Make evil of me"). "Will we be friends then?" Noah wistfully asks after she returns. "Weren't never friends," says Caroline. The play ends with Caroline's daughter Emmie, the politically engaged daughter of a politically indifferent maid, reflecting on the changes to come.

This material is hardly sentimental. Yes, it may be driven too much by Kushner's patented Jewish guilt (reminiscent of *Angel*'s Louis Ironson and his betrayal of Prior Walter). But it seems to me an eminently hardheaded view of the tragic breach between two American ethnic groups that once shared common ground. As for the production, it is extremely well-designed by Riccardo Hernandez (sets), Paul Tazewell (costumes), and Jules Fisher and Peggy Eisenhauer (lights); well-acted by the entire cast, especially Tonya Pinkins as the stoical Caroline and Harrison Chad as the precocious Noah; and strongly directed by George C. Wolfe, who has staged at least one genuine show-stopper, a scene of recrimination and remorse called "Lot's Wife." But just like those Victorian children who were asked to be seen and not heard, some musicals should be spoken and not sung.

I went to see Amy Freed's **THE BEARD OF AVON** with trepidation. I imagined from its title that the play was another contribution to Shakespeare Authorship Denial, that cottage industry of over-educated souls who believe that creative genius is only bestowed on patricians with a Ph.D. or a peerage. I guess I'm losing patience with people who ransack the arcane in order to avoid the obvious—Baconians and Oxfordians, for example, never bother to explain why Ben Jonson, the most envious playwright of his time, not only admired the man called Shakespeare "this side of idolatry," but never expressed a single doubt about his rival's creative identity.

Instead of being faux scholarship, *The Beard of Avon* proves a lusty antidote to all forms of Bardolatry, including the perverse benighted kind that considers the Bard a beard. Instead of assigning the works to this Elizabethan courtier or that Cambridge graduate, Freed assumes that everyone wrote Shakespeare's plays, including the Stratford man himself, who added touches of "heart" and "humanity" to plots he didn't have the wit to invent. An extended satiric sketch worthy of Monty Python, *The Beard of Avon* is a genuine hoot, performed by a splendid company and directed by Doug Hughes with cheeky energy and high style.

Freed treats Elizabethan theater his-

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tory with a lot of poetic license—or shall we say poetic licentiousness? She imagines Richard Burbage as a ham who keeps pulling a sausage out of his tights and pretending that it is his penis. She turns Heminge and Condell, Shakespeare's fellow actors and the editors of his First Folio, into theater managers who would drive tragic authors to suicide rather than sacrifice a raunchy bit of business. She imagines an Elizabethan culture more indebted to the Greeks than to the Romans. She invents spectacles like "The Conquest of Alexandrio" more appropriate to the heroic drama of the next (Restoration) age. And she creates a kind of period dialogue ("How ist doth amuse thyself this day? How ist doth pass the time 'twixt now and then?") that sometimes fails to pass the test of grammar or scansion.

On the other hand, her understanding of theatrical egotism is priceless, and her gift for comic anachronism is unmatched. The wanton, amoral, bisexual, bored, heartless, and irresistible Earl of Oxford, Edward de Vere, writes in a form he believes to be beneath him, but insists on total control of casting and unlimited house seats. In the act of seducing Shakespeare's wife, Anne, he reminds this "maid who can't say nay" that "an goodly man is hard to find." Oxford and Shakespeare collaborate on *Titus Andronicus*, the sonnets, and *Venus and Adonis*, a narrative poem about the pursuit of a younger man by an older woman, assumed by the court to be an allegory of Elizabeth and Oxford (James Joyce believed it to be a disguised account of Shakespeare's seduction by Anne Hathaway).

After Shakespeare writes *Richard III* for Oxford ("I see a hunchback. You flesh it out"), he becomes "a writer most enormously hot," virtually a brand name. Everyone at court begins submitting plays under his name, including Bacon (*Three Merry Whoresons*), Lady Lettice (a *Lear* that is nothing but an endless reading of the will), the Earl of Derby (*Any Way You Want It*), and Regina Dentata, the Queen herself, who writes a version of *The Taming of the Shrew*. In a hilarious re-enactment, Will re-writes her work and almost loses his head ("Thou art in water most enormously hot"). But all's well that ends well, as she chooses instead to bask in the play's success. Oxford, before he dies of the plague, says it doesn't matter who wrote the plays: "It's really all about the work."

Obviously, this kind of low backstage comedy is not to everyone's taste. But I left the theater enormously gratified, and grateful, too—particularly to Doug Hughes's remarkably detailed and exuberant direction (the best staging of the year), the colorful environment of the brilliant design staff (settings by Neil Patel, costumes by Catherine Zuber, lighting by Michael Chybowski), the courageous choices of the sensational actors (Mark Harelik's deliciously depraved Oxford, Tim Blake Nelson's perpetually surprised Shakespeare, Kate Jennings Grant's lubricious Anne Hathaway, Mary Louise Wilson's uproariously starched Queen Elizabeth), and, above all, the bold and bawdy playwriting of Amy Freed. Or whoever wrote the play under her name. ■

Robert Alter

Teen Anguish

SOMEONE TO RUN WITH
By David Grossman
Translated by Vered Almog and Maya Gurantz
(Farrar, Straus and Giroux, 343 pp., $24)

DEATH AS A WAY OF LIFE: ISRAEL TEN YEARS AFTER OSLO
By David Grossman
Translated by Haim Watzman
(Farrar, Straus and Giroux, 188 pp., $22)

DAVID GROSSMAN, THE PREeminent figure in the generation of Israeli novelists after A. B. Yehoshua and Amos Oz, is a striking instance of the predicament of being a writer in a country constantly shaken by violent political events. In the United States, he is chiefly known in two different roles—as the author of *See Under: Love*, one of the most original and arresting novels about the Nazi genocide in any language, and as the political journalist who produced *The Yellow Wind* and two other volumes sharply critical of Israeli policy toward the Palestinians. Grossman is certainly an engaged intellectual—it is hard to be otherwise in Israel; but on the whole the engagement does not carry over to his fiction. The one clear-cut exception is his first novel, *The Smile of the Lamb*, which appeared in 1983, and dealt with the murky ambivalences of the relationship between Israelis and Palestinians, with mixed success in a book where a young writer was still discovering his voice.

There is a kind of tacit expectation within the tradition of modern Hebrew fiction, going back to its origins in Czarist Russia, that the novelist should stand on the frontline of the urgent issues of the day, providing readers at least some orientation and perhaps even instruction about the ever-looming question, as the socialist ideologue Nikolai Chernyshevsky famously put it, "What is to be done?" This expectation was often fulfilled in the so-called Statehood Generation, the Hebrew writers who came of age in the late 1940s, but it was increasingly resisted by the novelists who rose to prominence a decade later. Even in those of their books that involved national quandaries, the chief interest often proved to be not the fate of the nation but the kinks and the convolutions of individual psyches enmeshed in collective predicaments. To be a novelist is, before all else, to exercise the ability to enter deeply into the lives of others, and for Israeli writers, caught in the relentless vise of politics, that experience of living in others has often seemed a welcome release from the abrasive political realm.

Granted, a good many of these writers appear at political meetings (an eminent contingent participated in the recent Geneva accords between the Israeli peace camp and purported Palestinian accommodationists), write op-ed pieces, sign manifestoes, and take part in demonstrations, but almost all of them really would rather be writing fiction. "I am not a journalist," Grossman says in the preface to *Death as a Way of Life*, a

Robert Alter's translation with commentary of THE FIVE BOOKS OF MOSES *will be published by W.W. Norton in the fall.*

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collection of his short journalistic pieces from 1993 to 2002, "if I had my way, I would lock myself up at home and write only fiction. But the daily reality in which I live surpasses anything I could imagine, and it seeps into my deepest parts. Sometimes, writing an article is the only way for me to decipher, to understand, and to survive from day to day."

Now, journalism is manifestly a public act, but the very language that Grossman invokes here for it suggests that it may in fact serve a deeply personal purpose. In the case of Grossman's political journalism, the purpose appears to be catharsis. The essays assembled in *Death as a Way of Life*, following political events from the Oslo agreements to the present bloody intifada, are the sensitive responses of a person of humane conscience to daily scenes of increasing savagery and mayhem, but they provide precious little illumination on issues of policy. This may be because in the present historical impasse no politically viable policy appears to be within anybody's reach. The journalism is more *cri de coeur* than analysis, more moral than analytical, and whatever decipherment and understanding it attains reside chiefly in the writer's working out of his own anguish.

PERHAPS WHAT IS MOST ADMIRable in these essays is the way Grossman stubbornly clings to the old Zionist ideal of the normalization of Jewish life in the face of realities that tear at the bonds of normality, from Israel's own fervently messianic nationalists to an international "community" that increasingly casts Israel as a pariah state. It is to Grossman's credit as a political commentator that he is not willing to settle for this condition of abnormality, ineluctable as it often may seem: "The State of Israel today is an attempt by Jews to live a life that is not ideal, not demonic. To live real life itself. The normal life of a people living in its country, on its land, raising its children, defending itself with its own strength, and trying, at last, to find a way to conduct normal relations with its neighbors."

In light of this embattled dream of normalization, the novelist's dedication to his craft might be regarded as a privileged experience, through a sustained act of the imagination, of normalcy, in which a writer is free to think not about suicide bombers and helicopter gunships but about what it feels like to be an awkwardly lonely and unnaturally diminutive adolescent (*The Book of Intimate Grammar*), or a latter-day Underground Man capable of intense relationships only through the medium of words (*Be My Knife*), or a small child growing up in a skewed and scary world of concentration-camp survivors (*See Under: Love*). Grossman's most recent work of fiction, *Through the Body I Understand*, as yet untranslated, is a particularly striking instance of his ability to enter persuasively into the lives of characters utterly different from himself. Instructively, the English title that he provides on the verso of the Hebrew title page is not the literal one that I have just given (in which, by the way, the verb "understand" is feminine). He prefers to call it *In Another Life*. The volume is made up of two novellas, the first about a husband who initially sounds plausible enough but progressively reveals himself to be altogether delusionally jealous of his wife; the second about an Israeli lesbian living in London who comes home to care for her mother dying of cancer. The two women are extravagantly different in temperament, values, and sexual orientation, but Grossman finds a way to make the wryly stated reconciliation between them convincing and quite moving as he exercises fine empathy for both. These novellas are the work of a mature novelist in full control of his powers.

SOMEONE TO RUN WITH, THE LATest of Grossman's novels to appear in English translation, belongs to a different category of his fiction. The publisher's presentation of the English volume is slightly misleading, because it gives the impression that this is simply a novel in which the two main characters, male and female, happen to be sixteen-year-olds. In fact, this is not only a novel about adolescents but also a novel for adolescents—something which is made clear in the jacket copy of the Hebrew edition, written by the critic Menakhem Perry, which stresses the fairytale matrix of the plot.

Someone to Run With reflects an aspect of Israeli literature that has no real American counterpart. Quite a few of the major Hebrew writers have written books for young readers or even small children. Yehuda Amichai produced three utterly charming volumes of verse for children. One of Amos Oz's most engaging books, *Panther in the Basement*, is a story set in the later Mandatory period about the ambivalent friendship between a fervidly nationalist Jewish child and a British sergeant. (That book, in turn, may well have helped prepare the way for Oz to write *The Book of Darkness and Love*, a still untranslated memoir of his Jerusalem childhood in the 1940s and in some ways his finest achievement.) Grossman has been writing fiction for children of various ages since early in his career. One other book from this category, *The Zigzag Kid*, has appeared in this country. *Someone to Run With* is aimed at a slightly older group than *The Zigzag Kid*—mid-adolescents rather than thirteen-year-olds—and it is also darker, as I shall explain.

I cannot give an adequate explanation for the interest of serious Israeli writers in young readers. Perhaps an economic consideration is sometimes involved: it is not easy to make a living as a writer in a country that has such a limited number of readers, and addressing books to children and adolescents might be a way of expanding readership and sales. But that may be an excessively cynical way of looking at the phenomenon. Israel is a small country and remains a relatively literate one as well, and the relationship between writer and audience is more intimate than it is here. A desire to address young people as well as adults, accompanied by a certain respect for the imaginative seriousness of young readers, may more readily flourish in a society where writers are not entirely isolated in coteries of literary intellectuals and in academic preserves.

In Grossman's case, if writing fiction itself is a kind of escape from harrowing political dilemmas, writing fiction for young readers is an escape within an escape—or perhaps more accurately, a holiday for the serious imaginative writer. Grossman's novels, after all, are about troubled souls—isolates, fantasists, characters struggling to express and authentically feel love—and whatever resolutions he provides them are understandably qualified or ironic. His adolescent protagonists naturally enough have troubles of their own, but these are mainly bound up with their developmental phase and so lend themselves to the complete resolution of a happy ending. The vehicle of fiction for young readers also frees the writer to cross the line between "serious" and popular fiction, playing intricate and avowedly old-fashioned games with suspense, packing the plot with surprises and excitements, and then pulling everything together in a grand flourish at the end.

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ALL THIS IS MANAGED WITH great panache in *Someone to Run With*. The novel unfolds through two parallel plots, each with its own protagonist, and with an initial time lag of a month between the two narratives. By stages, the two plots converge, intertwine, become one, as boy finally meets girl. The boy, Assaf, on a summer job at the Jerusalem city hall, is sent out with a stray dog on a leash to find, and to fine, the owner. The dog leads Assaf to an old Greek Orthodox nun who has been living alone in a pilgrims' hostel for half a century, never setting foot outside. She becomes the first of many fairytale elements in the book. Theodora, the nun, is clearly a kind of good witch or fairy godmother. To allow Assaf to enter her dwelling, she lowers a heavy iron key in a basket from her tower-like window. His encounter with her leads him into the world of her young friend Tamar, the central figure of the other narrative strand, and he soon sets out in search of her. Tamar, we then learn, has run away from her scarcely attentive parents (she has two alternative mothers in the book, Theodora and the hard-edged, warm-hearted owner of a local restaurant). As an act of disguise, she has shaved her glorious head of hair and then gone out on the streets as a performing vocalist, in a scheme to discover and rescue her older brother, a heroin addict who has fallen into the clutches of a sinister gang of criminals.

Much of this turns out to be a brilliant updating of *Oliver Twist*. (Although that novel is never mentioned, *David Copperfield* is one of the books that Theodora devours in her long isolation within ecclesiastical precincts.) There is no school for pickpockets here, but the gang—presided over by an unsavory corpulent character named Pesach—enlists runaway teen street performers, holds them in thrall with drugs, and uses their performances as decoys during which its operatives pick the pockets of people in the audience whose attention is fixed on the performers. Pesach's brutality and his displays of phony paternal solicitude for his young protégés are beautifully done. He even comes equipped with a pair of aged parents who are his willing accomplices and play a part in the weekly charade of cheery Sabbath dinners for the kids, under the sharp surveillance of the mobsters. (One might say that, in contrast to Dickens, here we have Jewish villains done "from within.")

The writer clearly has great fun with all of this, but it should be said that much of the novel, until the last happy turn of events after a seemingly terrifying moment, is rather somber. There are reassuring good fairies to aid the threatened hero and heroine—Theodora, the restaurant owner, the muscular ex-boyfriend of Assaf's big sister—but the threats are genuinely frightening, and the viciousness of the criminal types is powerfully evoked. Beyond the strictly literary models of Dickens and the fairytale, moreover, adolescent drug addiction is an acute problem of the real world, in Israel as in this country, and its horrors are represented unflinchingly. The penultimate sequence of the novel involves a cold-turkey withdrawal from heroin, and nothing is spared in the excruciating and physically repulsive details of the ordeal.

WHAT ULTIMATELY MAKES *Someone to Run With* so interesting—for adult readers, I think, as well as for younger ones—is Grossman's gift for getting inside the head of his teenage heroes, imagining the images and perceptions that occur to them, their sense of vulnerability in a world controlled by powerful and often dubious adults, their vague, stubborn, and sometimes extravagant dreams for their own future. Here, for example, is Tamar's first visual impression of Pesach: "He wore a thick black ring on one of his fingers, and Tamar was hypnotized by his pinky, with its long talonlike nail." The focus on the hand is as Dickensian as the borrowings from *Oliver Twist*. A child's view of adults, as Orwell shrewdly observed of Dickens, may be predisposed to highlight their gargoyle-like aspects. If the gross ring is standard apparel for a vulgar gangster, the talon-like pinky turns Pesach into a predatory monster in a nightmare, and it is just right that Tamar should be "hypnotized" by the sight.

At the very beginning of the novel, Assaf, confronted by Tamar's dog in the city pound, observes that it "wasn't very big, but it was full of strength and savagery and, mainly, despair. Assaf had never seen such despair in a dog." It is the noting of despair in the dog that is the hallmark of a robust empathic imagination here. Assaf, at sixteen still in many ways a boy, spontaneously assumes a psychological or emotional affinity between man and beast not bound by the categories of distinction of the adult world. As an instance of this quality of imagination, Grossman is especially good on the traumatic moment when Tamar has her head shaved. First, she caresses her hair, feels its weight, relishes "the feeling that her hair made her bigger, enlarged her existence and her physical reality in the world." Then, after the cruel barbering act: "Her naked head looked like an exposed stump to her. She had the feeling that now everyone could read her thoughts."

As even these snippets may suggest, Vered Almog and Maya Gurantz have for the most part done an admirable job of turning Grossman's Hebrew into lively American English. Still, there are odd and annoying lapses—I would say, one every fifteen or so pages—that make one wonder whether copy editors are an endangered species in the New York publishing world. Idiomatic usage unaccountably slips off the rails: "explosions of water pipes" (instead of "bursting"), "her ... zealous face defrosted" (instead of "thawed"), glasses that have "lips" (as they literally do in Hebrew) rather than "rims," "tens of legs" (again, literally from the Hebrew, instead of "dozens"), "cutting a path through the bush of facts" (instead of "tangle" or "thicket"). Occasionally, grammar also trips up. Confusingly for the English reader, Mount Scopus is rendered semi-Hebraically as "Hatzofim Mountain" and the Judean Desert weirdly and too literally as "the Judah Desert." Fortunately, such moments of awkwardness are not too frequent, and the English by and large succeeds in conveying the colloquial edge, the vividness, and above all the sense of connection with adolescent experience of the Hebrew.

WHAT I THINK IS MOST gripping about this novel for readers of all ages is the rendering of the adolescent's feeling of powerlessness in a world where unanticipated, uncontrollable, and menacing things often happen. Such experiences mark a connection with at least some of Grossman's fiction for adults. In his previous novel, *Be My Knife*, Kafka is repeatedly invoked by the protagonist, who sometimes seems like a distant cousin of Gregor Samsa, an identity that unfortunately makes him a rather unappetizing narrator in an epistolary novel. There are moments when *Someone to Run With* reads like Kafka for teenagers, and this quality is reinforced by the Dickensian character of

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the book, for Kafka was an avid reader of Dickens, with the two writers sharing a feel for the child's vision of the world and a sense of the labyrinthine nature of the legal system.

Here, for example, is Assaf, at the jolting moment of being mistakenly arrested for narcotics trafficking. He has been flung to the ground, when "two strong fingers pressed hard against the sides of his cheeks and forced his mouth open; immediately after that, other fingers invaded his mouth, searching for something, then leaving. Assaf lay stunned. He saw ants running around in front of him, and a cigarette butt; everything was enlarged." The more interesting expressions of helplessness are not physical, as here, but existential. Tamar, adrift in the streets of Jerusalem, penetrated with loneliness, is momentarily overcome by a sense of her own nullity in the world: "You don't belong anywhere anymore, not at home, not with the chorus, not with the closest friends you ever had; one more minute and you'll disappear completely and no one will notice it."

Grossman is especially notable in his understanding that adolescents may come to troubled global perceptions about life that are not necessarily half-baked, but merely couched in a language appropriate to their own limited range of experience. A signal instance in the novel occurs when Assaf discovers and reads Tamar's diary (he has not as yet actually met her) and is struck by the note of deep sadness it expresses.

> She had no illusions. She touched the wire with bare hands, and her sadness wasn't an ordinary sadness, the kind that was familiar to him, for instance, when Hapoel lost a game or he got a bad grade. It was a completely different kind of sadness, like that of old people who already know everything about life. Assaf knew this sadness every once in a while, in brief flashes. He couldn't describe it with words, and preferred not to try, because once you put something into words, it stays for good, like a final verdict against you.... He didn't like thinking those thoughts.... They would attack him every once in a while, as he sat alone in his room, or before falling asleep at night—suddenly he would be trapped in a cold thought, as if he were falling, dropping into a pair of gaping jaws.

Such passages may look simple, but they exhibit a beautiful integrity in imagining another life quite distinct from the writer's own, at best perhaps nourished by decades-old personal memories. This sort of writing equally demonstrates that there is an underlying moral and literary seriousness in this novel for young readers, whatever the excitements and the calculated contrivances of plot and character. The two young heroes may be watched over by tutelary spirits as they are beset with dangers; the villains in the end may be trundled off to their just desserts as emphatically as in a novel by Dickens; and resolute goodness may finally prevail over the powers of darkness. Yet, for all the deftly managed literary fun, the novel also conveys certain unblinking perceptions of things askew in the order of existence, of fears that perhaps even a happy ending will not exorcise, of the menace of free fall into gaping jaws. ■

Cass R. Sunstein

Appetite for Life

THAT MAN: AN INSIDER'S PORTRAIT OF FRANKLIN D. ROOSEVELT
By Robert H. Jackson
Edited and introduced by John Q. Barrett
(Oxford University Press, 290 pp., $30)

ROBERT JACKSON WAS ONE of the greatest Supreme Court justices in the nation's history. Serving on the Court from 1941 until his death in 1954, Jackson wrote many enduring opinions. Of these, the most remarkable is probably his opinion in 1943 invalidating a state law compelling school children to salute the American flag. With his eye directly on Nazism and communism, Jackson wrote:

> Compulsory unification of opinion achieves only the unanimity of the graveyard.... If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or at their faith therein. If there are any circumstances which permit an exception, they do not now occur to us.

This opinion, written during World War II, stands out in American history as one of the strongest judicial protections of civil liberty in a time of war.

But Jackson was no conventional liberal. He was unpredictable, independent, something of a maverick. He was also an exceptional writer—the best, I believe, in the Court's history. And he was much more than that. Before he joined the Court, Jackson had a remarkable record of public service under Franklin Delano Roosevelt. He began in 1934 as the top lawyer in the Bureau of Revenue, now called the Internal Revenue Service. In 1936, Roosevelt appointed him to head the Tax Division in the Department of Justice; a year later he was asked to lead the Antitrust Division. In the next year Roosevelt appointed him solicitor general, the government's principal lawyer before the Supreme Court, where his performance was so outstanding that Justice Louis Brandeis famously claimed that Jackson "should be solicitor general for life." Notwithstanding, or because of, his superb performance, Roosevelt promoted Jackson to the position of attorney general in 1940. Appointed to the Court in 1941, Jackson took the only leave of absence from that job in the nation's history—to serve as the senior American prosecutor at Nuremberg in 1945.

I have said that Jackson was a remarkable writer. In addition to his judicial opinions, he produced several books, most notably *The Struggle for Judicial Supremacy*, an illuminating and energetic catalogue of the struggles between the Supreme Court and the Roosevelt administration. But after his appointment to the Court, Jackson mostly restricted himself to judicial opinions. Or so it was thought until 1999, when Jackson's son died and his family discovered a mysterious folder in a closet in his

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apartment in Manhattan. The folder had a label: "Roosevelt Book."

Inside was a jumble of papers, some typed and some handwritten, all of them detailed recollections of Roosevelt, whom Jackson knew exceedingly well. The family contacted John Q. Barrett, a law professor at St. John's University, who was writing about Jackson at the time, and Barrett spent several years assembling the files into a book. It would be hard to think of a more amazing find. Jackson's manuscript had been widely unknown. Apparently Jackson had conceived of the project in 1949, and started to write it in 1953, spurred by what he saw as the nation's dimmed memories of the Roosevelt presidency. But in March 1954 Jackson suffered a serious heart attack, and he died suddenly in October of that year.

JACKSON HAD CHOSEN "THAT MAN" as his title. During Roosevelt's presidency, many of his fiercest critics, especially wealthy ones, expressed their hatred by referring to "that man in the White House." Jackson contrived to turn the epithet around. His book is arranged not chronologically but in terms of "that man's" various roles: lawyer, economist, administrator, commander-in-chief, companion, and more. By the time of his death, Jackson had produced a great deal of text, but his book was far from finished. Barrett has done an admirable and even heroic job with it, partly by interpolating some of Jackson's other writing, including unpublished materials and excerpts from an oral history, in which Jackson answered detailed questions about his life and his career. As a result, there is now a genuine book, one that contains some illuminating discussion of historical events. Most important, the book offers a fresh occasion for considering the personality and career of the greatest leader of the twentieth century, memorably described by Isaiah Berlin as the only statesman in the world upon whom "no cloud rested."

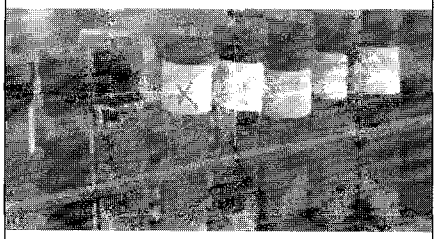
Roosevelt had a massive effect on American law and on the American economy. In Jackson's portrait of him, however, Roosevelt was an indifferent lawyer and utterly incapable of thinking well about economics. Though Roosevelt was trained as a lawyer, and briefly practiced on Wall Street, he had little taste for it. In Jackson's account, Roosevelt disliked "the drudgery and detail of the law, and he was always impatient of the slow and exacting judicial process." Thus Roosevelt "was a strong skeptic of legal reasoning and criticized many attitudes of lawyers and members of Congress for being legalistic."

But Roosevelt was frequently preoccupied by the law, to be sure. He was willing, in the early and mid-1930s, to challenge a right-wing Supreme Court that was, in his view, acting politically rather than legally. Still, even when the stakes were high, as they were in World War II, he sought to obey the law. Jackson is right to insist that his tendency was "to think in terms of right and wrong, instead of terms of legal and illegal. Because he thought that his motives were always good for the things that he wanted to do, he found difficulty in thinking that there could be legal limitations on them."

With respect to economics, things were worse. There, Jackson remarks, "the President was at his weakest." As Jackson notes, the New Deal was caught between two different sets of ideas about how to improve the economy. On one approach, endorsed by Woodrow Wilson, antitrust law set the appropriate standard: competition should be open, and the job of government is to ensure that markets stay free. On another approach, championed by Theodore Roosevelt, it is acceptable for business to restrain trade, so long as the government plays a large role as an overseer or a regulator. The New Dealers went in both directions. In the midst of the Depression, some of Roosevelt's early reforms strongly encouraged cooperation among companies, hoping that such cooperation would prevent the economy's downward spiral and eventually increase employment. To those who favored cooperation, aggressive use of the antitrust law was unhelpful, even harmful. As Roosevelt said to Jackson, "I don't see any harm in Ford, Chrysler, and General Motors getting together and agreeing on a production schedule that will maintain employment on an even basis over a given period of time."

But many people, including Jackson, were deeply skeptical of such an approach, thinking that it would hurt consumers and ultimately the economy as a whole. When Jackson explained his objections, Roosevelt responded: "I guess that's right." Yet Jackson reports that Roosevelt "never seemed very clear as to what distinction he would make or where he would draw the line between the two" approaches. Roosevelt did recognize that

Health Matters



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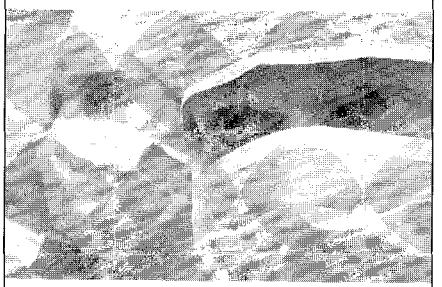

What I Learned in Medical School
Personal Stories of Young Doctors
Edited by Kevin M. Takakuwa, Nick Rubashkin, and Karen E. Herzig
Foreword by Joycelyn Elders, former U.S. Surgeon General

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they were different, but "as to which was preferable and whether there was not some way by which you could have the best parts of each, he was never quite clear."

In describing the areas in which the debate arose, Jackson's prose is plodding but also damning: "I do not set myself up as one to appraise the mental processes of the President, but they did not impress me as being grounded in economic theory or practice.... I think he had never devoted himself to much study of the economic processes of the country." What is true for antitrust was true for tax policy as well. In Jackson's telling, Roosevelt was ill-equipped to understand the economic consequences of taxation. Jackson concludes that "economics did not appear to be his long suit."

WAS ROOSEVELT A GOOD administrator, at least? Some people have applauded the diversity, the complexity, and the occasional chaos of the Roosevelt administration, suggesting that the president deliberately tried to ensure a range of ideas. Jackson disagrees. He says, with apparent frustration, that the New Deal was "not a reform movement" but "an assembly of movements—sometimes inconsistent with one another." Confronted with different or irreconcilable policies proposed by people he liked, Roosevelt preferred to compromise or to create multiple layers of authority, adding further complications. Or suppose that an agency turned out to perform poorly: instead of abolishing it, Roosevelt would "pyramid one on top of another." In Jackson's account, this was not a clever strategy. It grew out of Roosevelt's antipathy to "face-to-face quarrels with people." Not wanting to dismiss people or even to argue with them, he chose instead to "set up overriding authority." Jackson also complains that Roosevelt paid little attention to channels and ranks, sometimes asking lower-echelon employees about topics that were better suited to higher-level personnel. While economics was not "his long suit," administration, Jackson says, was "not his strong point."

So what was? Jackson approves of Roosevelt "as companion and sportsman." In this realm, Jackson reports, "Roosevelt was irresistible and inimitable. He liked people, almost any people. He liked their company, liked to pick their minds and see what they were thinking, liked to know the details of their lives and their problems." Jackson illustrates this point with a brief comparison of Roosevelt and Wilson. Wilson's advisers had asked him to meet with leaders in American business, in order to convince them to cooperate with the war effort. Wilson generally refused, saying that they had nothing to teach him. Ultimately they were able to convince him to see Henry Ford. Afterward Wilson showed complete contempt for Ford as "the most comprehensively ignorant man I ever met." Roosevelt's meeting with Ford, by contrast, was clearly a pleasure to both, with the president reporting, "I had a grand time with Uncle Henry." In Jackson's words, Roosevelt "respected him for the things in which he was able and had none of the contempt that characterized the Wilsonian attitude."

Jackson describes Roosevelt as a person of enormous generosity and personal sensitivity. It "never escaped notice how he had attempted to set his schedule and make arrangement to convenience others." Unfortunately, much of Jackson's account of Roosevelt as "companion and sportsman" consists of a long (as in really, really long) memorandum of an uneventful fishing trip; the memorandum is a bit like your least favorite neighbor's home movie. Consider this passage:

> Our usual evening diversion was the little poker game, which the President joined at the beginning. The wind, and effort, and neuritis combined to make me a pretty dull player. Twice I laid down my hands when called and announced my hands incorrectly; both times, however, fortunately for me, I had understated my hand and was corrected by Captain Woodson [a naval aide to Roosevelt] or other players. One of these corrections resulted in taking a pot away from Colonel Watson [an Army officer]. He announced that he always played by the Powder River rules and that it was settled practice to shoot any man who announced his hand incorrectly. Hopkins [one of Roosevelt's principal advisers] was uniformly lucky and played his cards for everything there was in them. Watson was a rather careless player, bent on thorough enjoyment of the game rather than on results.

I guess you had to be there.

Jackson stresses that Roosevelt was a masterful leader and politician. In his account, Roosevelt was successful with Congress above all because his support was wide and deep among ordinary people. "I think that on the part of the laboring masses of people—the labor unions (including most of the labor leaders) and the minorities, such as the Negroes—the feeling was genuine and very deep that they wanted Roosevelt.... They felt that he was their friend." While Roosevelt was skillful and experienced with other leaders, "his real strength was with the great masses of warm-hearted people who saw in him a champion and enlisted in his cause." Jackson lays particular emphasis on Roosevelt's mastery of the radio, used to such extraordinary effect in his fireside chats. Roosevelt didn't orate. He "would simply talk as to a neighbor—the country sat at its receiving sets, and each felt that he was being talked with." Jackson thinks that Roosevelt would have done equally well or perhaps even better with "the newly devised television."

OWING TO HIS APPOINTMENT to the Court, Jackson did not serve in the Roosevelt administration during World War II. But between 1939 and 1941, the situation in Europe was increasingly ominous and war was clearly on the horizon. Much of Jackson's discussion of Roosevelt as commander-in-chief deals with his crucial and controversial decision, in 1940, to assist the British navy by sending fifty American destroyers. In return, Britain agreed to give the United States long-term leases for bases on British territories in the Caribbean and the western Atlantic. Jackson offers a detailed account of the circumstances that led to the arrangement. As Jackson describes it, the lend-lease plan emerged after a series of desperate pleas from Churchill, the last an ominous suggestion that without help Britain could not long sustain "the present rate of casualties" from the German assault. A complicated negotiation followed, in which the lend-lease idea was ultimately devised. Jackson suggests that notwithstanding his ordinary impatience with legal niceties, Roosevelt was greatly concerned to ensure that the deal was lawful; and Jackson concluded that it was. He much admires Roosevelt's overall performance in international affairs. He remarks that "war exalts the executive function," and that a wartime president "is just bound to grow in the public vision

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and fill the public eye much more than the senators."

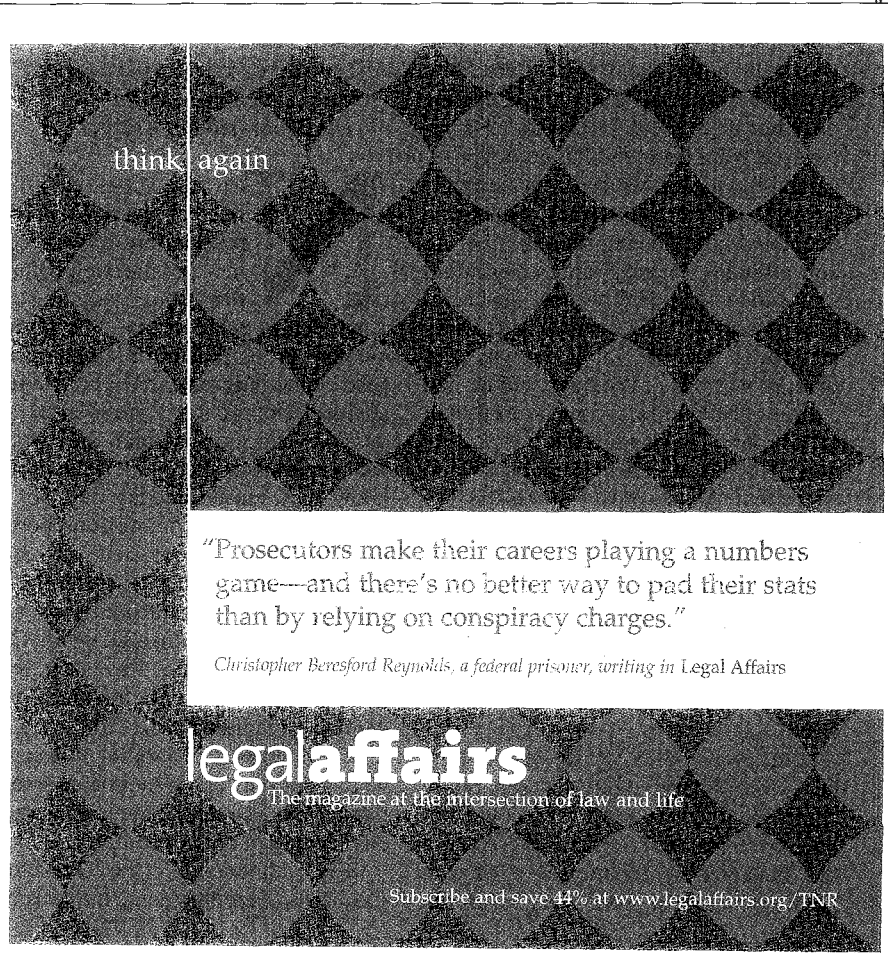
As a Supreme Court justice, Jackson was a lively and imaginative writer. His language stands out in this rather arid literature for its freshness and its specificity. But in his Roosevelt book, Jackson's prose strangely lacks energy; it is often leaden, lifeless, a sea of platitudes. For example: "The Chief Magistrate does not succeed merely by being magisterial. He will fail as president if he fails as politician. . . . He occupies the office that represents the whole nation, not one state or district. If the President does not bring to it the elusive and variable qualities that add up to leadership, he loses much of the influence, if not the legal power, of his office."

The book begins to sound like Justice Jackson, and starts to sing, only in its epilogue, which includes Jackson's speech at the Department of Justice's memorial service for Roosevelt. Here Jackson captures something of what Roosevelt meant to the nation: "Throughout the land, by countless humble firesides, people feel less secure today because he is gone; for, while he walked with Kings, they knew that he never lost the common touch; that he was their friend and advocate; that while he lived there would be no forgotten man. Neither sea nor land stretched far enough to get out of range of his sympathy and understanding." Then Jackson adds a more personal note. While working for Roosevelt, he "had, on more than one occasion, to try to explain to him why things went the way they did, instead of the way I had told him they would go. Peals of hearty laughter would smother my embarrassment." Roosevelt "could make either a king or a countryman feel at ease in his presence. His personality, his serene self-confidence, and his gentle firmness were gifts of the gods.... Despair of defeatism among men or nations vanished at his touch."

But this memorable passage is, as I say, the exception. Otherwise *That Man* reads as if the author were old and tired, even a little bored. Perhaps a sense of discretion got the better of him. Consider this mildly tantalizing passage from the interminable account of the interminable fishing trip: "We had lunch on deck with much lighthearted talk of affairs of state, of fishing, of business, of politics, and of personalities. Comments were frank, informal, and quite inclusive, and they are better unrecorded." But I don't think that discretion is the real problem. Jackson was an outstanding lawyer and judge, with first-rate analytic abilities, but he lacked a quality of human perception. From the evidence here, he had no curiosity about what made people and politicians tick. He thought well about economics, and exceedingly well about law, but human beings were not (to use his own phrases) his strong point or his long suit.

Worse, Jackson provides little to illuminate Roosevelt's presidency. The closest he comes, again, is in his memorial service speech, where he points to Roosevelt's "serene self-confidence" and suggests that "people feel less secure today because he is gone." The important words here are "serene" and "secure." I wish that Jackson had said more about these characteristics, because they certainly defined "that man." According to Francis Biddle, his attorney general, Roosevelt "had more serenity than any man I have ever seen. One felt that nothing ultimately would upset him." Eleanor Roosevelt said that "in all the years of my husband's public life, I never once heard him make a remark which indicated that any crisis could not be solved." Immediately after the attack on Pearl Harbor, she reported, "he was completely calm. His reaction to any event was always to be calm." In his luminous essay on Churchill, Isaiah Berlin similarly observed that "Roosevelt stands out principally by his astonishing appetite for life and by his apparently complete freedom from fear of the future; as a man who welcomed the future eagerly as such, and conveyed the feeling that whatever the times might bring, all would be grist to his mill, nothing would be too formidable or crushing to be subdued and used and molded into the building of which he, Roosevelt, and his allies and devoted subordinates would throw themselves with unheard-of energy and gusto."

As Jackson hints, and as Berlin demonstrates, there was an intimate connection between Roosevelt's personal sense of security and his presidency, between what he said and what he actually did. The most obvious example is his first inaugural address, with the famous suggestion that "all we have to fear is fear itself." But the theme of security echoes through


think again
"Prosecutors make their careers playing a numbers game—and there's no better way to pad their stats than by relying on conspiracy charges."
Christopher Beresford Reynolds, a federal prisoner, writing in Legal Affairs
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countless speeches in the 1930s and the 1940s. In accepting the Democratic nomination on July 2, 1932 Roosevelt asked, "What do the people of America want more than anything else?" His answer was "a reasonable measure of security—security for themselves and for their wives and children." Most of his initiatives, including the Social Security Act, were an attempt to protect that sense of security. Campaigning in 1936, Roosevelt suggested that what Americans seek above all is "the peace that comes from security in their homes: safety for their savings, permanence in their jobs, a fair profit from their enterprise." In his last great speech, the State of the Union Address in 1944, Roosevelt summarized the goals of his presidency by outlining a Second Bill of Rights, which was to include rights to education, housing, adequate medical care, employment, and freedom from monopoly. "All of these rights," he concluded, "spell security."

In an instructive aside, Jackson speculates that "much of the President's self-assurance came from his mastery of his illness." He might have gone further and noted that Roosevelt was also a child of extraordinary privilege, a kind of golden boy, someone who encountered no obvious hardship at all until he was stricken with polio at the age of thirty-nine. For a period he suffered not only agonizing pain but also acute depression. He recovered from both, though he never regained the use of his legs. It is generally agreed that the event transformed and deepened him. Having seen him before and after his illness, Frances Perkins, a long-time friend who became his Secretary of Labor, "was instantly struck by his growth. He was young, he was crippled, he was physically weak, but he had a firmer grip on life and on himself than ever before. He was serious, not playing now." Roosevelt's uncle Frederic Delano wrote that "His severest test was the 'Polio,' and to my mind that is what really made him what he is,—a twice-born man." With characteristic gusto and humor, Roosevelt himself linked his serenity to his illness: "If you had spent two years in bed trying to wiggle your big toe, after that anything else would seem easy!"

But Roosevelt's sense of mastery, his extraordinary vitality, his apparently complete freedom from fear, could not have been just that. Perhaps there was a link between the experience of his own paralysis and the fact that, as Berlin suggested, what he "could not abide was, before all, passivity, stillness, melancholy, fear of life or preoccupation with eternity or death, however great the insight or delicate the sensibility by which they were accompanied." In any event, what happened inside Roosevelt was almost certainly a part of his intense sense of connection with people in the most difficult circumstances of life—a sense of connection that defined his words and his deeds. Perkins wrote that after the onset of his illness, a formerly arrogant young man "had become conscious of other people, of weak people, of human frailty." It is worth recalling Roosevelt's largely unpublicized and lifelong relationships with victims of paralysis at Warm Springs, Georgia, where many people, including Roosevelt himself, hoped to be strengthened by swimming in the local waters. Perkins testified that "He was one of them—he was a big brother—he had been through it—he was smiling—he was courageous—he was feeling fine—he encouraged you to try—he said you could do it."

But even Perkins did not believe that she really understood Roosevelt. "That quality of simplicity which we delight to think marks the great and noble was not his," she concluded. "He was the most complicated human being I ever knew." While many distinguished historians have written illuminatingly on Roosevelt, they have not yet untangled those complications. Robert Jackson's book, unfortunately, does not come close. ■

Gregg Easterbrook

Tolstoy and the Beltway

BEYOND THERAPY: BIOTECHNOLOGY AND THE PURSUIT OF HAPPINESS: A REPORT BY THE PRESIDENT'S COUNCIL ON BIOETHICS
(ReganBooks, 328 pp., $14.95)

NOT TOO MANY PRESIDENTIAL commissions produce reports that include chapters on the well-being of the soul, advising the American population that "the place of memory in the pursuit of happiness suggests something essential about human identity." Not too many presidential commissions suggest that men and women will experience life more fully if they know they must someday die. Not too many presidential commissions post on their websites a "bookshelf" of recommended readings on fate, suffering, and dignity, with literate introductions to selected writings by Cather, Douglass, Ovid, Plutarch, Shakespeare, Stevenson, Swift, and Tolstoy. But then not too many presidential commissions are run by Leon Kass, a biologist and a moral philosopher who is not only an eminent conservative thinker but also one of the leading public intellectuals of our generation.

The commission, the President's Council on Bioethics, came into existence two years ago, just after George W. Bush made his complex—and politically tortured—decision to allow a limited degree of federally funded study of embryonic stem cells, the mysterious "totipotent" (able to change into anything) biological structures that may hold the promise of significant medical breakthroughs, but are obtained mainly by destroying embryos. It is indicative of the more placid time before September 11 that Bush's stem-cell decision, reached a month earlier in 2001, was elaborately explained by the president in a prime-time television speech concerned solely with medical ethics. During the speech Bush announced the creation of the bioethics council and named Kass to head it. The committee's first product, the study *Human Cloning and Human Dignity: An Ethical Inquiry*, was released last year. *Beyond Therapy* is the council's second production.

Human Cloning and Human Dignity took the view that the former would violate the latter, and set aside the question of human cloning for another day. *Beyond Therapy* asks whether the many medical advances now in the works—among them perhaps substantial increases in longevity, mood-improving drugs without side effects, and technologies that increase the odds of healthy, smart,

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athletic babies—are as desirable as they may seem. "We have entered upon a golden era for biology, medicine and biotechnology," *Beyond Therapy* declares, and then warns that "once we go beyond the treatment of disease and the pursuit of health there seem to be no ready-made or reliable standards."

THERE IS SURELY AN ABSENCE of reliable legal standards. Congress has enacted almost no laws concerning biotechnology. There is no over-arching statute, nor one agency with clear jurisdiction. Some biotechnological questions fall to the Food and Drug Administration, but its mandate is mainly to determine whether pharmaceuticals are safe and effective, not whether medical technology ought to be used. Some perplexities fall to the Environmental Protection Agency or the National Institutes of Health or even the Department of Agriculture, but may engage regulations enacted in the 1960s and 1970s to govern toxic chemicals. The muddled regulatory structure results in such theater-of-the-absurd actions as an Environmental Protection Agency decision legally to classify some types of corn as a "pesticide," and a Food and Drug Administration ruling on whether genetically engineered salmon is a "drug."

A few specific biotech questions, such as the protocols for federally funded investigation of stem cells, have been addressed by narrow Washington actions; but Congress and all contemporary presidents have avoided tackling biotech head-on in any comprehensive way. So much is happening in biotechnology, and so swiftly, that there is no agreement on what should be permitted or banned. There is also the suspicion that Washington above all wants to avoid two kinds of blame, first for allowing something horrible and second for not allowing the production of disease therapies. (Stem cell research might lead to a cure for Parkinson's, for example.)

The lack of clear federal guidance, moreover, applies only to federally funded research, most of which goes on at universities. In the private sector of science there are no rules. So long as you are not using federal money, you can pretty much do what you want with human cells, human DNA, human embryos, and whatever mutant chromosomes you may casually create. Anything goes in private labs; one reason why the in-vitro fertilization clinic industry blossomed so rapidly is that it is unregulated. (It is worth noting that IVF assistance for couples having difficulty conceiving was once denounced as a dangerous God-playing technology but now is widely accepted, even by most of the religious right.) Many private biotech firms and IVF clinics have ethics advisers, some of whom take matters seriously; but at the private level ethics are optional.

AS *BEYOND THERAPY* REMINDS us, society has scarcely begun to grapple with whether it really wants what biotechnology may produce. Commonly it is assumed that all technological developments are inevitable. Technology may be regulated, but to say that society does not want a new thing or a new device, that it should be placed back into the box and the box sealed and dropped into the Marianas Trench, is wasted breath. Historically speaking, the technological imperative seems always to have won out. But *Beyond Therapy* begs to differ: we must recognize our moral agency in these matters, the report insists, and ask ourselves whether we really want what biotechnological and genetic engineering make possible. I would add that society must ask itself this question immediately, because many of these innovations are coming fast.

Usually when we fret about biotech, we fret about The Big Mistake: a mind-control drug, a human-animal genetic cross, some runaway DNA-altered organism. But a Big Mistake seems improbable. The natural world has spent eons evolving mechanisms to resist uncontrollable effects. So far as is known, in 3.8 billion years of life on Earth, including about six hundred million years of animal life, there has never been a "runaway" gene or organism, because whenever new DNA codes enter the biosphere, they encounter resistance from existing codes elaborately conditioned by evolution to resist anything beyond incremental change. (The only runaway effect in the history of biology is, arguably, the human intellect—seven thousand years from controlled agriculture to domination of all other species. If this was a big mistake, it was a good mistake.)

What *Beyond Therapy* fears is the Little Mistake, or the accumulation of lots of Little Mistakes. Today amniocentesis is used to screen for severe birth defects, and most people find it acceptable; but will ever-better prenatal DNA screening lead to "a kind of negative eugenics," in which any forming fetus with a detectable genetic shortcoming is discarded? Suppose mood-improving and performance-enhancing drugs that have no side-effects are developed, allowing people to be cheerful and alert at all times, and everyone to run like an Olympic sprinter. Won't it be exceedingly difficult to resist such compounds, until we become what we swallow? Suppose a drug without side-effects could reduce aggression. It might cut down on crime and bad driving, but might we also lose the aggressive desire to excel and to create?

Beyond Therapy further fears that life-extension biotechnology will become so proficient that someday men and women will be effectively ageless, or at least live many times longer than is the norm today. Not immortal—a person who barely ages could still die in accidents or by violence—but aging very slowly, perhaps across centuries. Strictly from the standpoint of economics, imagine the market for anti-aging biotechnology. Every person on Earth will want it! Already various gimmicks are widely touted for reversing aging, and people buy them despite lack of evidence that what is on the market actually works. The cover of *Reader's Digest* recently proclaimed "The New Pill That Can End Aging"; something about "acetyl-L-carnitine" and "alpha liopic" acid, which in trials combined to rejuvenate senescent rats; the small complication is that there is not yet testing on people. The first bio-engineered pill that provably extends the human lifespan will be a pharma blockbuster exceeding Lipitor, Prozac, Rogaine, and Viagra combined.

LET US PONDER A FEW BIOTECHnological prospects that *Beyond Therapy* views as probable, the first being a significant extension of the typical lifespan. Laboratory experiments have already shown that switching off a gene that seems to dictate aging can treble the lifespan of worms and increase by 75 percent the lifespan of mice, which are mammals. (Worms, flies, and mice are used for age research because they live through their normal lifespans so quickly.) There appears no reason to assume genetically enhanced longevity will not at some point work for men and women too, though so far there have been no attempts to deactivate aging genes in people. But changes

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come with longer life. Worms and mice that are altered for extended lifespans become sterile, or barely reproduce. It is as if nature knew all along that someone would someday figure out how to switch off the aging gene, for if very long lives were achieved, while births remained constant, there would be unmanageable population growth. Keep in mind that the fantastic increase in the global population in the twentieth century, from 1.5 billion to six billion souls, happened not so much because there were more babies—average fertility declined steadily across the world as population rose—but because there was less death, the median human lifespan almost doubling during the past century.

Imagine a reasonably near future in which the typical person lives two hundred or three hundred years, but the compensating demographic shift is that children become rarities, communities close most of their schools, college ceases to be a large industrial sector, you have got to drive a long way to find one of the few remaining Toys "R" Us, and everybody has been there, done that, regarding practically everything. *Beyond Therapy* also worries that "society's openness and freshness might be diminished" if the world were populated mainly by very long-lived adults, with an ever-smaller fraction of children. But think of the benefits: no more pop music fads!

The thought of a society that is almost entirely adult—in years if not in temperament, a distinction worth pondering—is vaguely spooky. But then in 1900 the typical American lifespan was forty-six years; by 2000, it was seventy-seven years. Told that typical Americans would live to seventy-seven years, an analyst of 1900 might have worried about an enervated, geriatric nation collapsing under the weight of nursing-home costs. Instead the adjustment to an ever-larger cohort of seniors has been fairly smooth. Perhaps future societies will adjust just as smoothly to longer-lived members, while every new arrival of the future enjoys an incredibly spoiled childhood.

Beyond Therapy grimly ponders whether those who expect to live two hundred or three hundred years might be "less prepared for and less accepting of death." The genetically engineered Methuselah could indeed take that perspective, viewing death as an unthinkable, rather than as an inevitability for which the wise prepare. Here *Beyond Therapy* comes perilously close to sounding as if it favors dying, or at least favors the knowledge of death as a cause of the appreciation of life, and the savoring of it. My own pet fear in this regard is that some fantastic life-extending biotechnology will become practical just as baby boomers reach the hospice stage. Having dreamed in the 1960s of eternal youth, boomers may attain only an eternal senescence.

CONSIDER WHAT MIGHT HAPpen if biotechnology allows relatively convenient "negative eugenics"—checking embryos or early fetuses for genes associated with any unwanted quality, and discarding potential life that does not pass muster. Media chatter about designer babies is scoffed at by most biologists; science understands so little of how DNA translates into proteins, let alone into limbs or brains, that the idea of manipulating genes to determine the characteristics of a person seems well into the future. (Researchers have known for a quarter-century, for example, where the gene for cystic fibrosis is and what it looks like chemically, but they still do not know what to do about it.) Yet it may not be that long until there are screening tests, perhaps less invasive than amniocentesis and perhaps inexpensive, that warn of naturally occurring genetic markers associated with shortness, baldness, color-blindness, susceptibility to disease, and other traits.

So should the typical parent have em-

Beagles, Hunters

Son driving, wife asleep, we're flying the interstate, southern woods
impenetrable mile after mile, a few houses tucked in far back.

Squads of cars speed like a dream we're in. Ahead, a flight of flyers
crosses, but I think too big, not birds, other shapes, white, funny,

darting as if hurled by something invisible way in, loosed by desire,
each body focused, one head appearing to hold them together, lifted

on earth by lightness and speed our limbs do not know. Then two
burst like melons, the car ahead wobbles, and stunned, as if shot at,

the driver sails on, as we do, linked in line. A third stops, stands,
deciding in the space of one instant I am the killer, and the head

like a summer tomato explodes beneath us. Two dawdlers, reaching
the green center, skid, turn back, then float like ghosts in the sun's

going down. Shaken, you bolt up from shallow dark, still alive.
Like depression choosing which child to take, this dream can't be

stopped, its five comic charmers lie slicked on tarmac, bone-shred
and vapor before we can ask what in god's name led them to us?

Slowed by what's happened, the day holds its breath, dozes now;
we feel nailed to the horizon. What did they want? Don't dreams

have rules? you cry. Your eyes close, open, that band boiling out,
vanishing as we float, a family like any other, some of us missing,

one place becoming another, light paling like hope. What do we do?
you cried to woods. I looked ahead, turned, glanced inside, belted

myself down, turned back to trees that limb by limb still held
a darkness we could not see into, engine running with the others.

DAVE SMITH

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bryos or early fetuses screened, and reject any that do not live up to an ideal? Some parents might seek perfect children out of vanity, but many parents might feel that they have a kind of fiduciary responsibility to bring their children into the world with the best possible prospects. If broad genetic screening can be done at the embryo stage, before the big moral dilemmas of abortion are engaged—most embryos fail naturally, so the discarding of an embryo does not offend nature, at least—it may indeed introduce the practice of a sort of eugenics. Think of the number of bald or clumsy or color-blind people who have made great contributions to the world, or whom you personally have loved.

NEXT COMES THE PROSPECT OF ever-better pharmaceuticals, able to alter us in ways that grow seductive. Suppose, for example, that biotechnology devises compounds similar to Prozac, but without side effects; huge numbers of grumpy people would take a harmless pill that improved their mood. (The people around them may insist that they take it.) Suppose biotechnology devises compounds similar to Ritalin, but without side effects; why not give it to kids to improve their schoolwork, or for that matter to adults to improve job performance? Not only do test scores rise for most children who take Ritalin and similar drugs, but adults with no relevant symptoms who take these compounds also do better on intelligence tests. Suppose biotechnology develops quasi-steroids that have no side effects: will even the Olympics be able to hold its ground against muscle-enhancers?

Though there will always be some people who would rather be their true spiky selves than their sunny pill-improved selves, advanced biotechnological compounds may end up common as aspirin. Assuming that such drugs can be engineered, millions of people will have trouble resisting them. How many will be persuaded by the arguments of lonely intellectuals that a society without sadness is not a human society, nor a humane one? Millions more will pop such pills for arms-race reasons: if the competition at college or the office is snarfing down high-tech molecules that increase alertness, mental prowess, and cheerfulness, won't you have to keep up as well?

Beyond Therapy asks a haunting question. Suppose there were a harmless biotech drug that could erase the memory of trauma—whether something awful such as witnessing violence, or something common such as the death of a parent. For the minority who develop clinical symptoms after trauma, a memory-erasing compound would be an act of mercy. But most people who experience trauma do not develop clinical symptoms; they agonize, they cry, they have trouble sleeping, but they maintain normalcy. *Beyond Therapy* supposes that most people are better off struggling with trauma, or even being rendered wretched by it, because this brings fullness to our humanity. "Sorrow, courageously confronted, can make use stronger, wiser and more compassionate," the report suggests.

More specifically, if there were a totally safe memory-deletion drug, should Holocaust survivors swallow it? The report answers that they should not; better the nightmare, but also the wisdom, of sorrow. This, *Beyond Therapy* believes, is not only a concern for the full humanity of the individual, it is a concern for society as a whole. The social memory of sorrow is an essential feature of a shared moral world. Suppose a harmless memory-deletion drug had existed in 1946, and all Holocaust survivors had freely swallowed some. They would have slept better in the intervening years, but the world might have become much worse for everybody, for a reason that is not hard to see. "Memory and mood altering drugs pose a fundamental danger," *Beyond Therapy* concludes, both to our current understanding of human happiness, and to the ability of the future to fear the past.

Memory-deletion drugs do not exist, and they are not on any researcher's drawing board; it is hard to imagine how such drugs could work on a physical basis. But two generations ago physicians would have called the heart transplant hard to imagine on a physical basis. *Beyond Therapy* assumes there will be a succession of biotechnological advances that are today hard to imagine, so we had better start thinking through the ethics before the engineering overtakes us. But will serious philosophical reflection on the ethics of bioengineering make us decide to stop? Surely not. The challenge will be, rather, to establish reasonable regulation of this technology. And if this will require senators and congressmen to give a thought to Ovid and Tolstoy, then we are all in for trouble. ■

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WASHINGTON DIARIST

The Joy of Sects

LIKE SAUL ON THE BIKE PATH to Damascus, Howard Dean found God, and so God decided to take another look at Wes Clark. Then Clark announced that he has studied "Catholicism, Protestantism, Christianity, Buddhism, Islam, Judaism, [and] Kabbalism," and God, Who, after all those parted waters and halted suns and multiplied loaves, expects people to recognize that Catholicism and Protestantism are forms of Christianity and that Kabbalism is a form of Judaism, and Who does not take kindly to having the secret knowledge of the true divinity represented in the sublunar sphere by a Clark-supporting culturally obsolete pop star with a fetish for red string, thought to shine His countenance upon Joe Lieberman. It was the right thing to do; the senator had earned the endorsement. But He understood, in His wisdom, that this would be too predictable and too Jewish, and so He directed His spirit toward Virginia Beach, where He revealed the outcome of the election to Pat Robertson, thereby demonstrating to a country captiously obsessed with the imperfections of its notables that the Almighty sometimes has a purpose for broken vessels.

I DO NOT DOUBT THAT THE REVELATION to Robertson will come to pass. George W. Bush will crush Howard Dean in November. The Democrats have decided to squander yet another historical opportunity on yet another Peter, Paul, and Mary concert. (Peter is the tender patriot who recently sang that the present government is a fascist regime.) It is a very virulent season, and one of the consequences of the pitiless, sectarian, self-loving, money-worshipping ethos of the Bush administration is to have made rage seem like reason, and to have erased from the recent memory of Democrats the great debate about the direction of the party that ended with the creation of the New Democrat, who, for all his or her weaknesses and mistakes, managed to combine a genuine concern for national security with a genuine concern for civil liberties, the ethical responsibilities of American power with the ethical responsibilities of American prosperity. But now the Democrats despise Bush so much that they are feeling pure again, which is always the beginning of their end. (I thought that Bill Clinton established once and for all the political utility of impurity.) They are taking the Republican bait. Howard Dean personifies the new Democratic excitability, the titillation of solidarity, the all-encompassing moral certainty, the diabolization of all who beg to differ. He is bringing the mentality of a sect to the leadership of a party. Who needs Nader, when there is Dean? Certainly not Bush.

DEAN IS ADMIRED FOR HIS HONESTY, which is indeed a virtue, because it exposes his features more efficiently. Consider his recent remarks on theology. When, a few weeks ago, my wicked colleague Franklin Foer provoked the press to inquire into the candidate's religion, Dean provided a fine glimpse of his personal scale. "I'm still learning a lot about faith and the South and how important it is," he told reporters, cheerfully admitting to an attitude of perfect expediency about the meaning of life. (The first evidence of this spiritual casualness came in the conversion to Congregationalism for the bike path.) Then he began to expound, piously and shallowly, upon the Book of Job, which he attributed to the wrong (excuse me, to the other) Testament. Not long afterward he remembered a visit to the Galilee this way: "If you know much about the Bible—which I do . . . ." But when he was asked to identify his favorite passage in the Bible, the ardent scripturalist said only, "Anything in the Gospels," which, like Bush's famous retort that his favorite philosopher is "Christ," was really a way of not answering the question, of concealing a vacancy in his mind. (I will never forget the smirk on Bush's face when he gave his reply.) Reporters did Dean the favor of noting that he recently told some Iowans that "I pray every day." This filled me with a brief blasphemous pity for the Lord of the Universe, who must also be tiring of Howard's hectoring. "I don't wear [religion] on my sleeve," he of the rolled sleeve added, "because I'm a New Englander, and New Englanders don't wear much on their sleeve that's personal."

ALL THIS CONFIRMS ME IN MY IMPRESsion that this man is a colossal waste of the nation's time. (In this I am not alone, since the clear winner of the Democratic campaign in 2004 appears to be Hillary Clinton in 2008.) Dean should have had the refreshing integrity to agree that he is not a pious man, and to insist that piety is not a qualification for the presidency. There was no shame in Dean's secularism, until he shamed it with his pandering religiosity. Thus he commented that his decision as the governor of Vermont to sign a bill legalizing civil unions for gays was affected by his Christianity. "The overwhelming evidence is that there is a very significant, substantial genetic component to [homosexuality]," he told Jim VandeHei of *The Washington Post*. "From a religious point of view, if God had thought homosexuality is a sin, he would not have created gay people." This is uncommonly stupid. Dean's remark is a rubbishing of scientific certainty and a rubbishing of religious certainty. The overwhelming evidence? Here, as in his exegesis of Job, is Dean's counterfeit Gore-like polymathy. I seem to recall that the explanatory power of "the gay gene" (which always sounded to me like something by Lehár) was ambiguous, and that the search for it was futile, and that gay men and women do not wish to be reduced to their chromosomes, to be absolved by science of their responsibility for, or their delight in, the lives that they lead. Moreover, the conception of God in Dean's remark is fully as crude as any conception of God to be found among the fundamentalists. Dean's God thinks the way a child's God thinks. And Dean's God does not create free beings, that is, beings who sin. It is quite clear that the God of the Bible regards homosexuality as a sin, and yet there are homosexuals. (No, this does not mean that the state should so regard them. The state does not speak for God or marry its citizens in His name.) It is quite clear that the God of the Bible regards adultery as a sin, and yet there are adulterers. "From the religious point of view," this is not vexing. God did not create gays or straights, good wives or bad husbands; he created men and women with a mind and a will sufficiently free of material conditions and circumstances to make moral and philosophical decisions. In its secular version, this idea of humankind is called liberalism.

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Who Could Be against "Adequate" School Funding?

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Many states are currently locked in court battles in which they are being sued to provide "adequate" funding for their schools. These adequacy suits, which have spilled over into legislatures, represent yet another example of a situation where words and slogans do not match reality.

For three decades state school funding has been driven by a series of court cases concerned with fiscal equity. These cases have a common argument: the individual state constitutions require a greater parity in spending between rich and poor school districts than is typically observed under mixed state and local funding.

But the supporters of the lawsuits were dismayed by the end results. In fact, some state legislatures that were required by the courts to equalize spending across districts did not come up to the highest-spending districts but instead kept the overall level constant. The proponents of these suits were unhappy because their desire had been to pry more school spending out of the states.

In reaction to this apparently unfortunate outcome, a new kind of lawsuit and argument developed—the need for *adequate* spending. Under this new legal strategy, a system could be equalized but could still be inadequate to provide an appropriate education. For example, one group claimed that New York State was not providing the constitutionally required adequate spending to New York City, even though New York City schools were spending more than the average being spent in forty-two states.

For the proponents of greater school spending, adopting the word "adequate" was a great coup, similar to adopting the word "equity" many years before. Surely we all want both equitable and adequate spending.

The crucial ingredient to these arguments is an implicit presumption that spending translates directly to school quality. Unfortunately, **a massive amount of evidence indicates that spending on schools is not closely related to school quality or student learning**.

How could this be? In the simplest terms there are too few incentives that reward good performance and too few disincentives to penalize poor performance in our public schools. Schools introduce unproven and unproductive programs. They overpay poor teachers (and underpay good teachers). They tolerate ineffective administrators at the state, district, and individual school level. In sum, they do not ensure that any additional funds will be spent in ways that improve student learning.

Because funding is not related either to overall student performance or to the performance of specific groups—minorities, disadvantaged students, or urban students—it is not a good index of equity. Nor is it possible to calculate how much needs to be spent to ensure adequate student performance.

Thus, when legislatures search for adequacy in funding or when courts demand it, they do not realize that it is a search for the Holy Grail—a noble but ultimately futile effort. The proponents of adequacy on the other hand know exactly what is going on. By exploiting this term, they are able to press for greater spending, knowing that whatever is spent now will be insufficient and that more will be needed tomorrow.

When asked to rally around equity and adequacy in education, be skeptical because those words do not mean what you think they do.

— *Eric A. Hanushek*

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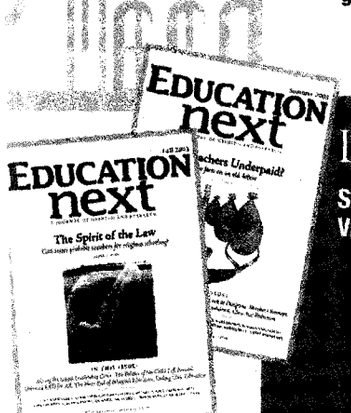

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